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HEARING
SENATE RULES COMMITTEE
STATE OF CALIFORNIA



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WEDNESDAY, JANUARY 6, 1993
2:45 P.M.

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

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Reported by:

Evelyn J. Mizak
Shorthand Reporter

APPEARANCESMEMBERS PRESENT

1 SENATOR DAVID ROBERTI, Chair

2 SENATOR WILLIAM CRAVEN, Vice Chair

3 SENATOR RUBEN AYALA

4 SENATOR ROBERT BEVERLY

5 SENATOR NICHOLAS PETRIS

STAFF PRESENT

6 CLIFF BERG, Executive Officer

7 PAT WEBB, Committee Secretary

8 RICK ROLLENS, Consultant on Bill Referrals

9 NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

10 M. PATRICIA HILLIGOSS, Member
11 State Air Resources Board

12 SENATOR MILTON MARKS

13 DAN PHELAN, Executive Director
14 Bay Area League of Industrial Association

15 MARC J. DEL PIERO, Member
16 State Water Resources Control Board

17 SENATOR HENRY MELLO

18 ASSEMBLYMAN SAM FARR

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CHAIRMAN ROBERTI: M. Patricia Hilligoss's confirmation for Member of the State Air Resources Board.

Senator Marks is here to introduce Ms. Hilligoss.

SENATOR MARKS: Thank you, Mr. Chairman and Members.

I came here to urge the confirmation of Patricia Hilligoss. She's the Mayor of Petaluma, a district which I represent. She's done an outstanding job as Mayor of Petaluma, and is fully conversant with the concerns that she's being nominated for. I recommend her highly.

CHAIRMAN ROBERTI: Thank you, Senator.

We also have on record a letter of support as well as an expression of intention that he would have liked to have been here for the confirmation, but unfortunately cannot be, from Senator Quentin Kopp. So, we'll enter that into the record as well.

Mayor Hilligoss, we'll ask you what we ask all the Governor's appointees, and that is why you feel you're qualified to assume this position.

MS. HILLIGOSS: Well, I served on the Bay Area Air Quality Board back in the '70s with Senator Kopp, and U.S. Senator Barbara Boxer, and Senator McCorquodale. And then I was re-appointed at the end of 1989, and I've been serving on the Bay Area air Quality Board since then. And I went -- I was Secretary, Vice Chair, and then when Anna Eschew was just elected to Congress, I am the Chair now of the Bay Area Air

1 Quality Board.

2 CHAIRMAN ROBERTI: Very good.

3 Are there any questions of the Mayor?

4 Is there anyone here in support? In opposition?

5 MR. PHELAN: My name is Dan Phelan. I am Executive
6 Director of the Bay Area League of Industrial Association.

7 I've written a letter, and I won't repeat the letter.
8 I'd simply say that I've known Patricia Hilligoss since she was
9 on the Board in '78. In all aspects, she's very well qualified
10 to do the job which you're now asked to confirm.

11 CHAIRMAN ROBERTI: Thank you very much.

12 Are there any questions of the Mayor? Is there a
13 motion before us?

14 SENATOR CRAVEN: Move confirmation to the Floor.

15 CHAIRMAN ROBERTI: Senator Craven moves confirmation
16 be recommended to the Floor.

17 Secretary, call the roll.

18 SECRETARY WEBB: Senator Ayala.

19 SENATOR AYALA: Aye.

20 SECRETARY WEBB: Ayala Aye. Senator Beverly.

21 SENATOR BEVERLY: Aye.

22 SECRETARY WEBB: Beverly Aye. Senator Petris.
23 Senator Craven.

24 SENATOR CRAVEN: Aye.

25 SECRETARY WEBB: Craven Aye. Senator Roberti.

26 CHAIRMAN ROBERTI: Aye.

27 SECRETARY WEBB: Roberti Aye.
28

1 CHAIRMAN ROBERTI: The vote is four to zero;
2 confirmation is recommended to the Floor.

3 Congratulations.

4 MS. HILLIGOSS: Thank you very much.

5 [Thereupon the Rules Committee
6 acted upon legislative agenda
7 items.]

8 CHAIRMAN ROBERTI: The next item on the agenda is the
9 appointment of Marc J. Del Piero, Member of the State Water
10 Resources Control Board.

11 Both Senator Mello and Assemblyman Farr are here,
12 come forward, to introduce Mr. Del Piero.

13 Senator Mello.

14 SENATOR MELLO: Thank you, Mr. Chairman. I'm glad to
15 view the operation of the Rules Committee from this spectator's
16 point here and know that my colleague is doing a good job of
17 replacing me there.

18 I'm happy to introduce and present to the Committee a
19 very distinguished person to the California State Water
20 Resources Control Board. He is the attorney member, and this
21 Board is a five-member, full-time, appointed by the Governor,
22 dealing with the allocation of water rights, and protect the
23 water quality in California.

24 I've known Mr. Del Piero for many, many years. He's
25 been a County Supervisor of Monterey County and served in many
26 other activities there. He's joined here today by his wife,
27 Tina Del Piero, sitting right back there.

28

1 CHAIRMAN ROBERTI: Happy to have you with us, too,
2 Ms. Del Piero.

3 SENATOR MELLO: And the thing that I'm impressed with
4 him is, I know we have many battles up here about water, and I
5 think it was Mark Twain who said, "Whiskey is to drink and water
6 is to fight over." And we've had plenty of fights.

7 But I think Mr. Del Piero represents the kind of
8 attitude and willingness to work hard to eliminate the fights
9 and get in and come up with solutions to protect this great
10 resource for the State of California.

11 He's already been involved in many of the decisions
12 that I think are fair to the entire state, so I'm happy to
13 present him here today and introduce him, and urge the Rules
14 Committee to confirm him to the full Senate.

15 CHAIRMAN ROBERTI: Thank you, Senator Mello.
16 Assemblyman Farr.

17 ASSEMBLYMAN FARR: Thank you very much, Senator
18 Roberti, and distinguished Members of the Rules Committee.

19 I'm here -- I think Senator Mello and I are here as
20 two Democrats to recommend the confirmation of a Republican that
21 we've served with in public office. I was a County Supervisor
22 when Marc Del Piero was on the Planning Commission in Monterey
23 County and very involved with LAFCOs, very outstanding,
24 recognized member of the state of a person who really
25 understands the water issues. Comes from neither a North nor a
26 South, or a user of any of the state water process, because all
27 of the water we have on the coast is in our own county, and it's
28

1 essentially the knowledge of the small water systems, the rural
2 governing issues as well. And I think he brings a perspective
3 to the Board that is needed in today's difficult water issues.

4 I've submitted a letter recommending confirmation of
5 his appointment, and I'm very pleased to be here with Senator
6 Mello in doing that, and also recognizing that this is Marc's
7 40th birthday and 14th wedding anniversary today with Tina. So,
8 we hope that your decision will be --

9 CHAIRMAN ROBERTI: I hope it's auspicious for him.

10 ASSEMBLYMAN FARR: -- a good birthday present.

11 CHAIRMAN ROBERTI: Supervisor, tell us why you feel
12 you're qualified to assume this position.

13 MR. DEL PIERO: Thank you very much, Senator Roberti.

14 First of all, let me express my appreciation to you
15 and the Members of the Committee for affording me the
16 opportunity to discuss my position on the State Water Board
17 today.

18 My career began in local government when I was 27
19 years old. That's when I got elected to the Monterey County
20 Board of Supervisors. Prior to that, when I was 24, I had been
21 appointed to the County Planning Commission. During the
22 entirety of my career in local government, I participated in a
23 significant number of issues directly related to water. During
24 the course of the 11 years that I served on the Monterey County
25 Board of Supervisors, I was responsible for the construction of
26 four county sanitation districts, four public water agencies,
27 one power plant, the operation of two major reservoirs and dams,
28

1 and the initiation of a \$500 million capital improvements
2 programs for water.

3 Additionally, beyond the bricks and mortar aspect of
4 what I did on the local governmental level, I was also
5 responsible for a number of water quality programs. Monterey
6 County, through the Board of Supervisors, developed the first
7 groundwater model to evaluate nitrate contamination due to
8 agricultural pesticides and particularly fertilizers. That
9 model, through a grant from the State Water Resources Control
10 Board, on which I currently sit, is currently being utilized
11 throughout the State of California as a model for other
12 groundwater analysis that is taking place.

13 Additionally, I was very lucky to have been appointed
14 by Congressman Leon Panetta to have served on the advisory
15 committee that developed the regulatory structure for both the
16 Elk Horn Slough National Estuary and Marine Sanctuary, as well
17 as the Monterey Bay Marine Sanctuary that was currently -- that
18 was dedicated by the Secretary of the Interior last year.

19 The activities that I have participated in during
20 both my activities with local government as well as my service
21 on the Board since the beginning of February of 1992 have
22 basically focused on four areas.

23 The first, obviously, is water rights, because under
24 the authorizing legislation for the State Water Resources
25 Control Board, the attorney position, which I currently fill, is
26 responsible for being aware of and being familiar with water
27 supply and water rights issues.

1 Additionally, our Board deals with groundwater
2 contamination issues. We are responsible for groundwater
3 protection. We have instituted an underground storage tank
4 program, clearly implementing the legislation that was passed by
5 the Legislature a couple of years ago. That program has been
6 very successful.

7 Beyond that, and perhaps most importantly, and most
8 recently, about three weeks ago, the State Water Resources
9 Control Board issued its draft decision, Decision 1630, on the
10 Sacramento-San Joaquin Bay-Delta Order. That decision is before
11 our Board on January 25th, at which time we will entertain
12 comments on the draft decision and, hopefully, render a decision
13 that can ultimately at least provide some interim relief for the
14 problems that have manifested themselves in the Sacramento-San
15 Joaquin Delta.

16 Mr. Chairman, with that brief overview, I would
17 submit myself for questioning by your Committee, sir.

18 CHAIRMAN ROBERTI: Are there any questions of
19 Mr. Del Piero?

20 Is it under your jurisdiction that we have the whole
21 question of fishery protection?

22 MR. DEL PIERO: Fishery protection is -- is under the
23 Department of Fish and Game. However, we are responsible for
24 protecting all of the public trust and public benefit uses that
25 water can be put to in the state, and pursuant to that, we have
26 a very significant role to play in terms of protection of the
27 public trust values, and those include the fisheries in the
28

1 Sacramento-San Joaquin Delta, as well as throughout the various
2 water bodies over which we have jurisdiction.

3 CHAIRMAN ROBERTI: Do you coordinate your activities
4 with Fish and Game?

5 MR. DEL PIERO: Very much so.

6 We -- during the course of our hearings on water
7 rights allocations, when people file applications to take water
8 out of various streams or rivers, we are required to receive
9 both testimony and give serious consideration to the
10 recommendations made by the Department of Fish and Game as to
11 how to guarantee that the appropriations that are proposed will
12 not have an adverse impact on public resource values. That
13 means the fisheries.

14 Our Board has made extra effort, particularly
15 recently, to ensure that those public benefit values are, in
16 fact, protected prior to us granting any new appropriative
17 rights.

18 CHAIRMAN ROBERTI: Do you have any program you're
19 working on right now as far as --

20 MR. DEL PIERO: Fisheries?

21 CHAIRMAN ROBERTI: -- fisheries?

22 MR. DEL PIERO: We've got several programs, yes,
23 Senator.

24 Decision 1630, which is the Bay-Delta Order, is
25 perhaps the most far-reaching order dealing with fisheries
26 issues, as well as all types of water issues, inasmuch as the
27 Delta provides water for a tremendous percentage of the
28

1 population of this state.

2 The order that was announced early in December by our
3 Board was the result of seven months of effort by our Board. We
4 had 15 days of public testimony during the summer of this past
5 year as a result of direction both by the Governor as well as a
6 number of legal actions that had taken place in a previous time
7 prior to my appointment to the Board.

8 It was our desire and our effort to adopt interim
9 standards that would basically stop the hemorrhaging in the
10 Delta; to stabilize and to attempt to initiate the recovery of
11 the biological communities that exist there.

12 The proposed Decision 1630, the proposed Bay-Delta
13 Order, if implemented, we believe that it will have a
14 significant impact on particularly the salmon population. We
15 have developed some rather interesting and, in some cases, novel
16 approaches toward the development -- or the re-development of
17 salmon runs on a number of the river systems that are tributary
18 to the Sacramento and the San Joaquin. Those include not only
19 limitations on reverse flows and pumping in the spring time,
20 when the small salmon are out migrating into the San Francisco
21 Bay, but more specifically, provisions that require not only the
22 Central Valley Project and the State Water Department, but also
23 other agencies that have impoundments or reservoirs on various
24 tributaries in the Sacramento and San Joaquin River system to
25 provide pulse flows to facilitate the out-migration of salmon
26 smelt at the time when they are most sensitive to having
27 adverse impacts on them.
28

1 The single biggest problem that we've discovered
2 during the course of all of the public testimony that was
3 presented was that, salmon runs on the Sacramento and San
4 Joaquin are most adversely affected in the spring time because
5 that's when the pumps are turned on. The adult salmon are less
6 adversely impacted by the operation of the pumps, but the small
7 ones just simply can't be -- cannot avoid be sucked into those
8 pumps and then, obviously, killed.

9 The recommendation that we have set standards for
10 pumping activities by both the Central Valley Project and the
11 State Department of Water Resources between February 1st and
12 June 30th to protect those out-migrating salmon. We also have
13 additional mechanisms in there to provide attraction runs for
14 adult in-migrating salmon so that they can find their way back
15 to spawn.

16 CHAIRMAN ROBERTI: Did you ever take a position -- I
17 think it was last year there was a question before Congress --
18 on the renewal of the federal contracts on water?

19 MR. DEL PIERO: On the Miller bill?

20 CHAIRMAN ROBERTI: Yes. Did you ever take a position
21 on that?

22 MR. DEL PIERO: No, sir. In fact, that -- that
23 legislation worked its way through. Our Board provided some
24 background information and technical information for a number of
25 the parties who had called and requesting that.

26 I will point out to you that the Miller bill provides
27 a mechanism in it for the State Water Resources Control Board to
28

1 establish priority for the utilization of that water. And in
2 fact, as part of Decision 1630, our Board has taken -- has taken
3 the initiative pursuant to the authorization by Congress to
4 determine about 550,000 acre of the water that was authorized by
5 the Miller bill has, in fact, been allocated for the restoration
6 of the Delta pursuant to that draft order.

7 CHAIRMAN ROBERTI: I don't know if it was part of the
8 Miller bill, but there also have been proposals that most of the
9 Federal Water Projects at some point be transferred to state
10 jurisdiction --

11 MR. DEL PIERO: Yes.

12 CHAIRMAN ROBERTI: -- as well.

13 Do you have a position on that area?

14 MR. DEL PIERO: Do I have a position on it?

15 CHAIRMAN ROBERTI: Yes, has the Board taken a
16 position?

17 MR. DEL PIERO: No, the Board has not taken a
18 position. And in fact, the Board would not be responsible for
19 the administration of the CVP if it is, in fact, taken over.
20 That would be the responsibility of the Department of Water
21 Resources.

22 We, however, would be responsible, as we are even
23 currently, for decisions related to water rights, and how much
24 of that water is allocated for agricultural or urban uses or for
25 the environment.

26 CHAIRMAN ROBERTI: Any other question?

27 SENATOR AYALA: I have a question.
28

1 CHAIRMAN ROBERTI: Senator Ayala.

2 SENATOR AYALA: Mr. Del Piero, the Board has not
3 taken a position yet as to the quality standards for the Bay.
4 The Miller bill kind of touches on that, but has the Board
5 established it? You've been having hearings throughout the
6 state. Have you come up with standards of quality water
7 standards for the Bay?

8 MR. DEL PIERO: A number of years ago before I was on
9 the State Water Resources Control Board, there was a contention
10 that there were water quality standards that had to be
11 maintained within the San Francisco Bay itself.

12 During the course of a review of a significant amount
13 of analysis that has taken place over the course of the last
14 five to six years, it's become apparent that previously
15 theorized impacts on the quality of the biological community in
16 San Francisco Bay is -- the belief that fresh water inflow into
17 the Bay some how had a major impact on the Bay has not proven to
18 be as true as some people had thought it was.

19 And the consequences of that have been that the focus
20 has been turned less toward water quality in the Bay -- and I
21 don't mean water quality from the standpoint of contamination or
22 toxics; I mean from the standpoint of fresh water versus salt
23 water -- and more toward recognizing the need to both preserve
24 and enhance the health of the Delta.

25 The single -- single biggest impacts on the biotic
26 community that exists within the Sacramento-San Joaquin Delta is
27 as a result of the pumping that has taken place. That's one of
28

1 the reasons why the winter run has been listed. That's one of
2 the reasons why there's significant discussion now about the
3 Delta smelt and other --

4 SENATOR AYALA: It will be your responsibility to set
5 those standards.

6 MR. DEL PIERO: That's correct.

7 SENATOR AYALA: You haven't done that yet.

8 MR. DEL PIERO: We have not done it for the Bay yet.
9 Decision 1630 will do it for the Delta, and that will be
10 considered by us --

11 SENATOR AYALA: The Delta already has standards.
12 This is going to enhance those standards.

13 MR. DEL PIERO: That's correct.

14 SENATOR AYALA: The Bay is protected by Porter
15 Cologne.

16 MR. DEL PIERO: That's also correct.

17 SENATOR AYALA: I don't know what we're trying to
18 protect there. I mean, it's a salt water bay, always will be.

19 MR. DEL PIERO: Well, the Bay is a salt water body.
20 And there -- as I indicated, the contention that fresh water
21 inflow somehow had an impact on the Bay has, to a significant
22 extent, been put to rest at this point.

23 SENATOR AYALA: Is that correct to say that?

24 MR. DEL PIERO: Substantially not correct. The
25 original belief --

26 SENATOR AYALA: I'm glad to hear that.

27 MR. DEL PIERO: There is some impact, but it is
28

1 substantially correct what was believed earlier. That's
2 correct.

3 SENATOR AYALA: So, you will be setting the standards
4 in the near --

5 MR. DEL PIERO: We have water quality for discharges
6 in San Francisco Bay that are actually set by Region 2 of the
7 Regional Water Quality Control Board.

8 SENATOR AYALA: But it's under Porter Cologne.

9 MR. DEL PIERO: That's correct, under the Porter
10 Cologne Act. But that's the Region 2 Regional Water Quality
11 Control Board. They set those standards, and those standards
12 are ultimately appealable up to the State Water Resources
13 Control Board if someone contends that they're either --

14 SENATOR AYALA: The regional will set those
15 standards.

16 MR. DEL PIERO: That's correct.

17 SENATOR AYALA: They'll be appealed if anyone -- to
18 the State Board.

19 MR. DEL PIERO: They will set the standards for
20 permits.

21 The State Water Resources Control Board adopts what
22 is known as a Bays and Estuaries Plan that sets criteria for the
23 entirety of the state. Then the Regional Boards are responsible
24 for implementing those on a site-by-site basis on specific
25 permitting.

26 SENATOR AYALA: Yesterday, when you and I visited, I
27 didn't have this letter from the Mayor of Gilroy.
28

1 Can you briefly tell me what is the problem with the
2 sewer treatment problem in Santa Cruz County?

3 MR. DEL PIERO: No, it's not in Santa Cruz. It's in
4 southern --

5 SENATOR AYALA: Santa Clara County.

6 MR. DEL PIERO: Southern Santa Clara.

7 When I was on the Board of Supervisors, the Board of
8 Supervisors of Monterey County sued the City of Gilroy over
9 their proposal to discharge their sewage into the Pajaro River,
10 which is a river that runs through Monterey County. We sued
11 them over the adequacy of their environmental impact report. We
12 sued them in Santa Clara County, where Gilroy is located and
13 where, obviously, the county seat of Monterey County is not.

14 And the Superior Court in Santa Clara County
15 overturned their environmental impact report, forced them to go
16 back and go through a much more comprehensive EIR in order to
17 address the water quality problems in the Pajaro River that
18 would -- would result if they discharged their sewage into the
19 River.

20 The concern that Monterey County had was that, and
21 remains, is that the Pajaro River provides a percolation
22 mechanism for the groundwater supply in the Pajaro Valley. And
23 in order to ensure that the water supply for the Pajaro Valley
24 -- which the City of Watsonville relies on, which the community
25 of Pajaro also relies on -- was in fact protected, we felt that
26 the environmental impact report that had been prepared by the
27 Cities of Gilroy and Morgan Hill was inadequate. The Superior
28

1 Court agreed with us.

2 SENATOR AYALA: So the problem is that you required
3 or requested another EIR?

4 MR. DEL PIERO: That we requested a more detailed
5 EIR, and they refused to do it. And so, the Board of
6 Supervisors, in looking after the interest of our constituents,
7 sued, and we were successful.

8 CHAIRMAN ROBERTI: Any other questions? Senator
9 Petris.

10 SENATOR PETRIS: I'm interested in the underground
11 water supply.

12 Over the years we've had legislation to impose some
13 kind of regulation. It's always been defeated because of the
14 growers' opposition.

15 Sometime back, in doing monitoring, we discovered a
16 lot of contamination; 2500 wells in the Valley alone were all
17 deemed to be contaminated with DBCP. And yet, there's been no
18 program developed by the Board to tackle that problem and try to
19 eliminate it.

20 Can you tell me anything about whether anything's
21 happening recently on that?

22 MR. DEL PIERO: I can't tell you anything about that
23 particular issue, but I can tell you what the standards and
24 criteria are that are pursued when that type of contamination is
25 identified.

26 The 2500 wells, I assume, cross a variety of county
27 jurisdictions?
28

1 SENATOR PETRIS: Yes.

2 MR. DEL PIERO: Currently, the way the system works
3 is, when those wells are identified as being contaminated, two
4 agencies have -- technically have jurisdiction. The County
5 Environmental Health Officer is the one that is immediately
6 responsible for making sure that those wells are not put to
7 potable use. If they are, he's responsible for issuing a red
8 tag and causing the cessation of the utilization of those wells
9 until a cleanup program has been adopted.

10 Additionally, the Regional Water Quality Control
11 Boards are also responsible. And normally, it goes beyond the
12 jurisdiction or authority of the Environmental Health Officer,
13 so it ultimately goes to the Regional Water Quality Control
14 Boards.

15 The Regional Water Quality Control Boards, if they
16 have in fact issued citations for contaminations, will require,
17 in order to get those citations eliminated, the preparation and
18 implementation of a cleanup plan.

19 Now, the 2500 wells that you're referring to,
20 Senator, I'm not familiar with. But it is -- if they are
21 located in the San Joaquin Valley, they are located in the San
22 Joaquin Valley Regional Water Quality Control boundary area.
23 And if in fact those wells have been identified with
24 contamination, then individualized actions, I assume, would have
25 been issued by the Regional Water Quality Control Board for
26 clean up.

27 Those technically would not come under the State
28

1 Water Board unless there was some overriding program that would
2 have necessitated our funding.

3 SENATOR PETRIS: Well, it was discovered in 1984, and
4 there was a big hullabaloo over it.

5 It was my recollection, as it was expected, that
6 because it was such a big area -- it wasn't just one county, as
7 you pointed out -- that the State Board ought to be involved in
8 it, at least set a policy that the others could follow.

9 In the meantime, apparently, nobody's done anything.

10 MR. DEL PIERO: Well, if you'd like, if you've got a
11 file on that in your office, I'd be very happy to take a look at
12 that and follow up as to what implementation or enforcement
13 actions have in fact been taken.

14 SENATOR PETRIS: I don't have a file on it. It's
15 just that it's been brought to my attention by the staff. I do
16 hear about it from time to time.

17 MR. DEL PIERO: I'll check with our staff and see
18 what that is.

19 That, as I indicated, technically would have fallen
20 under the Regional Water Quality Board for the Central Valley
21 for enforcement actions.

22 But I'll get back to you in regards to that issue.

23 SENATOR PETRIS: Related to that, more recently, in
24 '89, the Board did issue a report relating to nitrate
25 contamination in drinking water, and that was required by the
26 Budget Act of 1987.

27 MR. DEL PIERO: Yes.
28

1 SENATOR PETRIS: The summary says that the
2 Metropolitan Water District in Southern California is losing a
3 certain percentage of its water, drinking water, every year, 4
4 percent, because of this.

5 I'm wondering if the Board is taking any action on
6 that?

7 MR. DEL PIERO: We -- at this point, the Board has
8 actively been involved in attempting to develop groundwater
9 protection scenarios for the San Gabriel Valley groundwater
10 aquifer. I believe that's what you're referring to.

11 That basin was adjudicated a number of years ago. It
12 has a Water Master.

13 The Board has an ongoing program of working with
14 local governmental agencies to not only adopt, but implement,
15 protection mechanisms for that area in order to both limit any
16 further contamination, and two, and more importantly, that's to
17 clean up the plumes -- isolate and clean up the plumes of
18 nitrate contamination.

19 The source of those nitrate contaminations are
20 multiple. It's not an easily addressed program, but the Board
21 has an ongoing program with the San Gabriel Valley.

22 SENATOR PETRIS: I thought it was mostly
23 agricultural.

24 MR. DEL PIERO: Well, it is mostly agriculture.
25 Commercial fertilizers contribute significantly. And if it --
26 if we were talking about Monterey County, I could tell you that
27 95 percent of the groundwater contamination from nitrates comes
28

1 from commercial fertilizers; the other 5 percent comes from
2 septic tanks.

3 SENATOR PETRIS: Salinas Valley?

4 MR. DEL PIERO: Salinas Valley, that's correct.

5 And as I indicated during the course of my
6 presentation, we actually have developed a groundwater model to
7 monitor the movement of nitrate plumes that have resulted from
8 agricultural activities.

9 We're also attempting to identify mechanisms by which
10 we can encapsulate those plumes and, through reverse pumping,
11 cause them to stop expanding out and be pulled back in.

12 The Salinas Valley is developing a number of
13 groundwater management scenarios that are sort of on the cutting
14 edge, because we've had a significant problem with sea water
15 intrusion there that we're in the process of addressing. And
16 the nitrates is another issue, too, because there's a very large
17 plume that's heading toward the City of Salinas and about
18 100,000 people.

19 The same groundwater management techniques are
20 applicable, whether it's in Los Angeles County, or in Monterey
21 County, or anywhere on the North Coast. It's dependent upon the
22 hydrogeology of the particular area.

23 The Board has been granting money through a granted
24 program that, in fact, some of the funds were authorized by this
25 Legislature here about three years ago, to develop different
26 types of groundwater modeling. We're -- the Board is doing the
27 very best it can in terms of attempting to develop a
28

1 computerized base able to address groundwater contamination.

2 Groundwater contamination is an extremely insidious
3 thing, because no matter how much groundwater modeling is done,
4 no matter how many wells are drilled, no matter how many well
5 drillers' logs are analyzed, no one is ever absolutely sure of
6 the nature of the geologic formations in which the water is --
7 is borne. So, once it's contaminated, it takes a very, very
8 long time and a significant amount of money to try and clean it
9 up.

10 Our Board has been doing the very best it can, given
11 the financial difficulties that all of us face in this state, to
12 try and spend those monies that have been allocated to us in as
13 efficient a fashion as possible to develop groundwater models
14 that have the greatest potential for application throughout the
15 different areas of the State of California.

16 SENATOR PETRIS: Does the Board address conservation
17 problems at all?

18 MR. DEL PIERO: Yes, the Board does address
19 conservation. And in Decision 1630, not only have we mandated
20 conservation on urban users, but we've taken a first major step
21 toward mandating conservation on agricultural users.

22 SENATOR PETRIS: Do you have a goal in terms of
23 volume of water?

24 MR. DEL PIERO: Well, we don't have a goal in terms
25 of volume, because it's not that -- that easy.

26 The best we can do in terms of conservation is
27 attempting to recognize that there are a number of techniques
28

1 that can be used to conserve water. Five-gallon flush toilets
2 are antiquated. There are 1½ gallon flush toilets that are
3 being installed throughout the State of California that work
4 very, very well. There is really no reason to install a
5 five-gallon flush toilet, other than someone doesn't feel like
6 -- like participating in water conservation.

7 There are mechanisms for conservation such as low
8 flow shower heads, installation of gray water systems in new
9 developments, where reclaimed sewage water can be utilized for
10 irrigation of outside landscaping. That's been done in Orange
11 County. There are a number of other programs that can be
12 implemented to achieve water conservation.

13 An ultimate goal sort of flies in the face of a
14 growing economy in this state. It's my belief that there is a
15 tremendous amount of water that can be -- water saving, and
16 consequently, water re-use, that can be achieved through
17 conservation, both urban conservation and agricultural
18 conservation.

19 And at this point in time, the Board, through
20 Decision 1630, is taking a major -- it's the first step, but
21 it's a major step, in terms of mandating urban conservation
22 through the MOU that's been developed by the urban water users.
23 And also for the first time, recognizing that significant
24 conservation responsibilities lie on the shoulders of the
25 agricultural community throughout this state, but particularly
26 in the Central Valley, and having identified a number of
27 conservation activities and techniques in that order for them to
28

1 participate in.

2 SENATOR PETRIS: I'm familiar with the urban district
3 conservation because the local districts are doing a good job of
4 that, especially those that have been hit with the drought.

5 I don't know much about the agricultural side of it.
6 Are there programs actually in place, or are they only in the
7 planning stage?

8 MR. DEL PIERO: No, there are programs -- in some
9 instances, there are programs that are actually in place. And
10 it was rather enlightening during the course of the Bay-Delta
11 hearings that were conducted to find out that magnitude of water
12 conservation techniques that are being utilized by
13 agriculturalists in different areas of the State of California.

14 San Diego, Orange County, San Bernardino, Riverside
15 have -- particularly the orchard owners and the tree crop
16 growers -- have displayed --

17 SENATOR PETRIS: Does that involve the use of a drip
18 system?

19 MR. DEL PIERO: Yes, that's exactly what it involves.

20 SENATOR PETRIS: Is it economically feasible?

21 MR. DEL PIERO: They have discovered it is very
22 economically feasible. The type of crops that they grow down
23 there -- lemons, citrus -- are crops that generally have a good
24 return.

25 In the Salinas Valley, it's equally true, where you
26 have high value row crops like lettuce, cauliflower, celery.

27 A place where it's clear there is a problem in terms
28

1 of making the economics work is places where relatively low
2 value crops are being grown -- corn, cotton, sorghum, grain
3 crops where the return is not significantly high. It's very,
4 very difficult to -- for the farmers to expend money for capital
5 improvements on their farms that really translate into
6 irrigation systems improvements. They don't make a whole lot of
7 money on their crops, and as a result, they don't have a whole
8 lot to spend for water conservation and water -- water system
9 improvements.

10 It seems to me, Senator, in all candor, that a
11 policy decision needs to be made, and that's whether or not
12 there's going to be a recognition -- and my family are all
13 farmers, so I'm telling you that from that perspective -- there
14 seems to be a need to recognize that some agricultural
15 commodities by their nature cost a lot of water. They cost a
16 lot of water. And we have -- as a state -- have to make a
17 conscious decision as to whether or not we want that
18 agricultural commodity to be cheap, so that our residents can
19 enjoy inexpensive food, or whether that commodity is going to be
20 very expensive, and that commodity's going to be taken off of
21 the shopping list of a number of people.

22 That's not a decision I'm capable of making. That's
23 a decision that others with greater authority than I are going
24 to have to make.

25 SENATOR PETRIS: Do you have any recommendations?

26 MR. DEL PIERO: I've got a lot of recommendations,
27 Senator. I'll be happy to sit down and talk to you about it
28

1 sometime, if you'd like.

2 SENATOR PETRIS: Yes.

3 MR. DEL PIERO: Great.

4 Cam Karis told me to say hi to you. I talked to him
5 this morning.

6 SENATOR PETRIS: Say hi to him.

7 MR. DEL PIERO: We're good friends, been friends for
8 years.

9 SENATOR PETRIS: Another Democrat recommending a
10 Republican.

11 MR. DEL PIERO: Well, he's -- what can I tell you?

12 SENATOR BEVERLY: Have you ever thought of running
13 for the Senate?

14 [Laughter.]

15 MR. DEL PIERO: Henry Mello holds that seat. I'm
16 very happy with this job. Honestly, Senator, I'm very happy
17 with this job.

18 CHAIRMAN ROBERTI: Any further questions?

19 Any opposition?

20 Then do I hear a motion?

21 SENATOR BEVERLY: Move we recommend confirmation.

22 CHAIRMAN ROBERTI: Senator Beverly moves
23 confirmation.

24 Secretary will call the roll.

25 SECRETARY WEBB: Senator Ayala.

26 SENATOR AYALA: Aye.

27 SECRETARY WEBB: Ayala Aye. Senator Beverly.
28

1 SENATOR BEVERLY: Aye.

2 SECRETARY WEBB: Beverly Aye. Senator Petris.

3 SENATOR PETRIS: Aye.

4 SECRETARY WEBB: Petris Aye. Senator Craven.

5 SENATOR CRAVEN: Aye.

6 SECRETARY WEBB: Craven Aye. Senator Roberti.

7 CHAIRMAN ROBERTI: Aye.

8 SECRETARY WEBB: Roberti Aye.

9 CHAIRMAN ROBERTI: The vote is five to zero;
10 confirmation is recommended to the Floor.

11 Congratulations.

12 MR. DEL PIERO: Thank you very much, Senator.

13 [Thereupon this portion of the
14 Senate Rules Committee hearing
15 was terminated at approximately
16 3:46 P.M.]

17 --oo0oo--
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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of January, 1993.


EVELYN J. MIZAK
Shorthand Reporter

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STATE OF CALIFORNIA



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2:40 P.M.

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SENATE RULES COMMITTEE

STATE OF CALIFORNIA

HEARING

STATE CAPITOL

ROOM 113

SACRAMENTO, CALIFORNIA

WEDNESDAY, JANUARY 13, 1993

2:40 P.M.

Reported by:

Evelyn J. Mizak
Shorthand Reporter

APPEARANCESMEMBERS PRESENT

1 SENATOR DAVID ROBERTI, Chair

2 SENATOR WILLIAM CRAVEN, Vice Chair

3 SENATOR RUBEN AYALA

4 SENATOR ROBERT BEVERLY

5 SENATOR NICHOLAS PETRIS

STAFF PRESENT

8 CLIFF BERG, Executive Officer

9 PAT WEBB, Committee Secretary

10 RICK ROLLENS, Consultant on Bill Referrals

11 NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

13 JULIA LI WU, Member
14 Board of Governors
15 California Community Colleges

16 WILLIAM F. SOO HOO, Director
17 Department of Toxic Substances Control
18 California Environmental Protection Agency

19 SENATOR CATHIE WRIGHT

20 EDDIE GABRIEL
21 Asian/Pacific State Employees Association

22 THOMAS E. MCKONE, Ph.D., Senior Scientist
23 Environmental Sciences Division
24 University of California
25 Lawrence Livermore National Laboratory

26 PETER H. WEINER, Attorney at Law, Chairman
27 Environmental Department
28 Heller, Ehrman, White & McAuliffe

STEVE PIATEK, Manager
Environmental Health and Safety
Huntway Refining Company

APPEARANCES (Continued)

ALVIN GREENBERG, Ph.D., Technical Consultant
Planning and Conservation League

MEL KNIGHT, Chief
Hazardous Materials Division
Environmental Management Department
County of Sacramento

JODY SPARKS, President
Toxics Assessment Group

JAMES W. WELLS, Director
Department of Pesticide Regulation
California Environmental Protection Agency

CARL WINTER, Ph.D., Director
FoodSafe Program
University of California at Davis

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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: Governor's appointees appearing today, Julia Li Wu, Member of the Board of Governors of the California Community College system.

Good to see you, Julia.

She's my former constituent.

MS. WU: It's nice to be back.

CHAIRMAN ROBERTI: Why don't you tell us, as we've asked you before, why you feel you're qualified to retain this position?

MS. WU: Thank you, Senator.

Senator Roberti, Senator Bob Beverly, Senator Ayala, Senator Craven, Senator Petris, it's my great pleasure and honor to be here to attend this hearing. And I'd like to take just a couple of seconds to give my thanks to Senator Roberti and Senator Beverly for your support to our Los Angeles community colleges.

To answer your question, I have been an educator all my life, having been a teacher at the Los Angeles Community College, and having been a librarian most of my time. And I feel that I'm committed, fully committed, to education.

And having been elected to the Los Angeles Community College Board in 1987 and re-elected last year, I feel furthermore that I certainly can bring my local -- the grassroots perspectives, as well as the multicultural constituents' viewpoints to the Board of Governors of the

1 California Community Colleges.

2 And I think I can have a lot to contribute to the
3 state's 107 community colleges with my kind of background and
4 experience.

5 CHAIRMAN ROBERTI: I agree.

6 MS. WU: Dedication, too.

7 CHAIRMAN ROBERTI: You've been an outstanding member
8 of the Board, even though we don't belong to the same party.

9 Is there any objection to Ms. Wu's confirmation?

10 SENATOR CRAVEN: Move.

11 CHAIRMAN ROBERTI: Then Senator Craven makes the
12 motion that Julia Li Wu be recommended to the Floor for
13 confirmation to the Board of Governors, California Community
14 Colleges.

15 Secretary will call the roll.

16 SECRETARY WEBB: Senator Ayala.

17 SENATOR AYALA: Aye.

18 SECRETARY WEBB: Ayala Aye. Senator Beverly.

19 SENATOR BEVERLY: Aye.

20 SECRETARY WEBB: Beverly Aye. Senator Petris.

21 SENATOR PETRIS: Aye.

22 SECRETARY WEBB: Petris Aye. Senator Craven.

23 SENATOR CRAVEN: Aye.

24 SECRETARY WEBB: Craven Aye. Senator Roberti.

25 CHAIRMAN ROBERTI: Aye.

26 SECRETARY WEBB: Roberti Aye.

27 CHAIRMAN ROBERTI: The vote is five to zero;
28

1 confirmation is recommended to the Floor.

2 Good to see you, Julia.

3 MS. WU: Thank you very much, Senators.

4 CHAIRMAN ROBERTI: Our next nominee is the
5 appointment of Mr. William F. Soo Hoo, Director of the
6 Department of Toxic Substance Control, California Environmental
7 Protection Agency.

8 It's good to have you here today, Mr. Soo Hoo. We'll
9 ask you the same question, why you feel you're qualified to
10 assume this position.

11 MR. SOO HOO: Good afternoon, Mr. Chairman and
12 Senators.

13 I have been looking forward to this opportunity to
14 share with you my vision for the future of the Department of
15 Toxic Substances Control and the changes we have already made
16 during the Department's first year.

17 Based upon my qualifications and the actions I have
18 taken during the past year as Director, I seek your support for
19 confirmation.

20 Today I will share with you a synopsis of my personal
21 qualifications, the results of our 90-day External Program
22 Review, the highlights of the Department's reorganization, and a
23 summary of the Department's accomplishments and the new
24 directions being taken in our programs.

25 My personal qualifications are well suited for the
26 fiscal and technical challenges facing the Department. I am an
27 economist and an attorney by training. I've received my Juris
28

1 Doctorate from UC Davis Law School. My economics degree was
2 awarded by UC Berkeley and provides the background and training
3 needed to lead the Department through the state's current fiscal
4 crisis.

5 For the six years prior to being appointed Director,
6 I served as Chief Counsel and Enforcement Coordinator for the
7 Toxics Program. Consequently, I am well-versed on the complex
8 environmental regulatory laws that are the heart and soul of the
9 Department's work.

10 My law enforcement background began with several
11 years of work with the Oakland Police Department. I
12 subsequently served six years as a deputy Attorney General,
13 litigating state administrative issues.

14 In 1986, I was appointed Chief Counsel of the Toxics
15 Program. As Chief Counsel, my staff and I developed the "Toxic
16 Ticket", which is a widely acclaimed, innovative enforcement
17 order issued in the field for less serious violations. I am
18 also responsible for initiating the use of Federal Securities
19 Exchange Commission reporting requirements to require major
20 corporations to divulge hazardous waste management violations to
21 their shareholders.

22 My training and my experience have prepared me to
23 handle the challenges that face the Director of the Department.

24 As you may recall, the Department was created in
25 July, 1991. In the fall of 1991, Cal EPA Secretary James Strock
26 and I convened a 90-day External Review of all the Department's
27 programs in order to identify ways to improve the Department's
28

1 programs and to help shape the new Department. This review
2 involved more than 100 external experts representing: business,
3 environmental and public interest organizations; local
4 government; and the Legislature. These external experts formed
5 nine task forces that reviewed all of the Department's programs
6 and processes.

7 The Review Committee produced a 600-page report,
8 containing over 200 recommendations. After receiving the Review
9 Committee's report, my staff and I prepared a point-by-point
10 response. Our response serves as a guide for the Department's
11 planning and priority setting. My ensuing reorganization of the
12 Department in July, 1992, was predicated on the recommendations
13 of the 90-day External Review and my own evaluation of the
14 Department's programs and processes.

15 I solicited advice from all Department employees and
16 had conversations with at least 200 of my staff from all of our
17 offices. I have maintained this open-door policy to ensure that
18 I continue to hear directly the viewpoints of my staff.

19 The reorganization had to basic goals: first, to
20 coordinate and centralize reporting relationships in order to
21 achieve statewide consistency; and second, to make the
22 Department more open and responsive to community and industry
23 input.

24 In order to accomplish my reorganization goals, I
25 made several fundamental changes. First, our Permitting and
26 Enforcement Programs have been consolidated into a comprehensive
27 Hazardous Waste Management Program. Our Alternative Technology
28

1 Program has been reconstituted to focus externally on pollution
2 prevention, new technologies, public participation, and
3 regulatory assistance.

4 I have also eliminated the independently directed
5 regional office system. Each of the regional programs now
6 report to a Deputy Director in Sacramento. This change has had
7 the two-fold effect of ensuring consistent policy applications
8 among our regions, and has freed the former regional
9 administrators to serve as ombudsmen to their regional
10 communities.

11 While the main thrust of the reorganization was
12 designed to centralize policy making and planning for each
13 program, I have also decentralized control of the administrative
14 support resources, such as personnel, data processing, and
15 business services. In this way, the resources needed to support
16 the work of our line staff are more directly available to them
17 and under their control.

18 Now I will briefly address the accomplishments of the
19 Department's programs over the past year and our new directions
20 for the future. In the interest of time, I will simply
21 highlight our key accomplishments and new initiatives.

22 As recommended by the 90-day Review, I have expanded
23 our Pollution Prevention Program. The focus of this effort is
24 to foster the environmental protection technology industry in
25 California. This effort is intended to put California business
26 in a better strategic position to take advantage of the economic
27 forces created by California's environmental regulatory
28

1 programs.

2 As you are aware, environmental regulatory programs
3 are needed because normal economic forces do not assign value to
4 the environment. Without regulatory programs, there are no
5 natural economic forces that impose costs for degrading the
6 environment.

7 In response to environmental regulatory programs
8 generally, we are witnessing the development of a world-wide
9 environmental technology industry. California's strong
10 regulatory standards demand the production of the most advanced
11 environmental technology in the world, and California companies
12 have a natural advantage in developing this cutting-edge
13 technology. It is in the state's best interest to foster the
14 continued growth of the California-based technology development
15 industry. Not only will this program strengthen California's
16 economy, but the resulting advanced technologies will further
17 prevent pollution, and thereby minimize associated costs and
18 health effects.

19 In the final analysis, fostering the environmental
20 protection technology industry in California will demonstrate
21 that California's high standards can be a substantial
22 environmental and economic advantage to the state.

23 In the Hazardous Waste Management Program there are
24 three of our accomplishments I wish to highlight: RCRA
25 authorization; implementation of a tiered permitting program;
26 and delegation of additional authority to local government.

27 First, after year of seemingly futile effort, I
28

1 negotiated a Memorandum of Understanding with the United States
2 Environmental Protection Agency which authorized the Department
3 to administer the Federal RCRA Program in California. The
4 Department now administers a unified state and federal
5 permitting and enforcement program. This means that the
6 Department now issues permits that are both state and federal
7 permits. This consolidation not only saves government
8 resources, but allows the regulated public to interact with only
9 one government agency.

10 Perhaps more important than achieving a unified
11 permitting system is the fact that the Department, rather than
12 the United States Environmental Protection Agency, now sets the
13 priorities for the permitting and enforcement efforts in
14 California.

15 Second, working to implement last year's Assembly
16 Bill 1772, the Department is moving quickly to implement a
17 tiered permitting system based upon risk. Under the tiered
18 permitting program, there are five different levels of
19 permitting which will allow the level of permitting to be
20 tailored to the risks posed by the substances and processes used
21 by a company. The Department is holding statewide public
22 workshops to ensure the effective initiation of this program
23 within the timeframes mandated by AB 1772.

24 Third, the Department has started an important pilot
25 project to delegate more regulatory authority to the counties.
26 The Department is delegating its administrative enforcement
27 authority to eight pilot counties. The Department believes that
28

1 these delegations will result in a stronger local government
2 role in environmental protection and regulation. In addition,
3 in coordination with local agencies, the Department has set up a
4 consolidated one-stop permitting program in Southern California
5 as part of the Rebuild L.A. effort.

6 Our State Superfund, or Site Cleanup Program, also
7 made significant strides last year. As you know, we face an
8 unprecedented challenge in addressing the cleanup of 13 closing
9 military bases. California contains 17 of the 33 bases which
10 are closing nationwide. No other state faces such a challenge.

11 I am proud to report that over the last year, we have
12 successfully negotiated cleanup agreements with all the closing
13 military bases. These agreements prescribe the cleanup approach
14 and cleanup schedule for each base, and include a covenant to
15 provide federal funding of \$15 million per year for the
16 Department's oversight costs.

17 Also, working with Senator Calderon, the Department
18 succeeded in obtaining approval of Senate Bill 2056, which
19 provides a significant new incentive for responsible parties to
20 cleanup contaminated sites. Senate Bill 2056 allows responsible
21 parties who come forward and clean up a contaminated site to
22 seek treble costs from uncooperative responsible parties. The
23 cooperative responsible party shares half the judgment with the
24 Department to provide funding for future cleanups.

25 Coordination of site cleanup activities with local
26 agencies is also underway. We are currently developing
27 procedures to allow lower threat contaminated sites to be
28

1 cleaned up under the oversight of local government officials.
2 This coordination of resources will significantly help
3 facilitate the cleanup of smaller sites.

4 Finally, the new initiatives which may ultimately
5 prove to be the most important to the Department are two
6 unprecedented planning efforts. First, the Department is
7 developing its first strategic plan. Our strategic planning
8 effort began in October of 1992, and will be completed early
9 this year.

10 Second, the Department's Science Advisor has been
11 charged with advancing the level of science used by the
12 Department. Specifically, we are developing a system for
13 allocating the Department's resources based upon risk benefit
14 analysis. When completed, the system will propose an allocation
15 of resources based upon the comparative environmental benefit
16 provided by each of the Department's programs. The University
17 of California will be a consultant to the Science Advisor in
18 this effort.

19 In conclusion, I hope I have effectively presented an
20 overview of the new Department. It is clear that we must pursue
21 our priorities with increased productivity. I am fortunate to
22 be in the unique position of having received clear, direct
23 advice from the Department's stakeholders as a result of the
24 90-day External Review.

25 I am proud of what my staff and I have accomplished
26 in this first year, and I relish the opportunity to implement
27 the Department's new directions that I have outlined today.
28

1 Thank you, Mr. Chairman and Senators, for this
2 opportunity to address your committee. I welcome any questions
3 you may have.

4 CHAIRMAN ROBERTI: Thank you very much, Mr. Soo Hoo.
5 Senator Wright is here to speak on Mr. Soo Hoo's
6 behalf, I trust.

7 SENATOR WRIGHT: Mr. Chairman and Members, I don't
8 make it a habit -- in fact, I can't ever recall coming before
9 the Committee to speak on behalf of any appointee of the
10 Governor's -- but in this particular instance, since I was on
11 the initial involvement of the establishment of the Toxics
12 Committee on the Assembly side and was given the direction to be
13 oversight of the Department at that time, I have to tell you the
14 frustration that we went through for ten years of trying to get
15 any input from the Department, because no matter what questions
16 you asked, or what information you wanted, or what direction was
17 given, you were always -- a presentation was made before the
18 Committee, but in reality you never got the information nor was
19 any of the direction you offered ever accepted.

20 In this instance, I served on the 90-day Review
21 Committee. And in fact, I still serve on the continuation of
22 that Committee.

23 And this is the first time that I can truthfully say
24 under Mr. Soo Hoo's direction that we have been able to
25 truthfully see the committee process, wherein we do have an open
26 Department. We can view what's going on. We can see what's
27 being accomplished, and the accomplishments that's been made in
28

1 this last year are just tremendous.

2 And I certainly would hope that this Committee would
3 deem it advisable to support his position as Director of the
4 Department, because indeed, what he has started has just been
5 tremendous.

6 Our task force that was called the 90-day Review
7 Committee, there wasn't any question or any area within the
8 Department that wasn't available to us. So, when that report
9 was made, it was made based on all the information before us.
10 When that report did go out and be made public, it wasn't
11 something that was placed on a shelf. The Department certainly
12 has instituted and has gone forward to implement many of the
13 suggestions that was made by the Department [sic], and is still
14 working in a very open fashion for the Legislature and the
15 people of the State of California.

16 And I would really appreciate it if you would see it
17 in your heart to support his appointment.

18 CHAIRMAN ROBERTI: Thank you very much.

19 Is there anyone here in opposition?

20 Do any of the Members have questions? Senator Ayala.

21 SENATOR AYALA: There's a question submitted to us,
22 Mr. Soo Hoo, on page 4, where it says:

23 "What is the status of the
24 'Superfund' ... and what steps is the
25 Department taking to ensure that the fund
26 remains solvent in the foreseeable
27 future?"
28

1 Did you answer that in your presentation?

2 MR. SOO HOO: I don't know the question.

3 SENATOR CRAVEN: He would not have that.

4 SENATOR AYALA: The question is, what is the status
5 of the Superfund, and what steps is the Department taking to
6 ensure that the fund remains solvent in the foreseeable future?

7 MR. SOO HOO: Okay.

8 The State Superfund requires that the Department
9 clean up contaminated sites and also recover the costs. Under
10 prior administrations, the cost recovery effort in the
11 Department was not given the priority that it deserves.

12 As recommended by the 90-day External Review, the
13 Department under my directorship has adopted a policy of full
14 cost recovery, and we have moved forward to enhance our cost
15 recovery program. This includes automating the collection of
16 costs within the Department's accounting system, which was just
17 recently completed. We are in the process of -- of contacting
18 with a private major accounting firm, Arthur Anderson, to do an
19 audit of our cost recovery efforts and our accounting system,
20 and to develop an automated cost recovery system.

21 In addition, what we've managed -- that passed last
22 year, as I said in my opening statement, was Senate Bill 2056
23 with the help of Senator Calderon, and that provides a
24 significant incentive for private responsible parties not only
25 to clean up sites, but also to seek cost recovery against
26 uncooperative responsible parties, and half of the judgment
27 would be shared with the Department.
28

1 So, those are some of the measures that have been
2 taken to ensure that the State Superfund remains solvent.

3 SENATOR AYALA: What progress has been made in
4 Riverside County that pertains to the Stringfellow dump site,
5 which is contaminated? Some of the funding coming from the
6 Superfund has been used to clean that up.

7 Can you give us a progress report on how we're doing
8 there?

9 MR. SOO HOO: The Stringfellow site is a Federal
10 Superfund site. And what has happened as far as the -- that
11 particular site is that the Department has implemented the
12 necessary measures so that there is no current risk being posed
13 to anyone in the community surrounding the Stringfellow site.
14 This includes installing pump and treat systems, installing
15 canals that will make sure that the runoff avoids the
16 contaminated areas, and we're in the process of reaching a final
17 decision on what the cleanup will be at that site.

18 SENATOR AYALA: Is it your Department that's
19 providing bottled water for the people who live in that area?

20 MR. SOO HOO: Yes, that's part of -- some of the
21 measures that we've implemented.

22 SENATOR AYALA: And isn't it our responsibility to
23 find the original party that started the contamination? If not,
24 then the Federal Superfund comes in.

25 MR. SOO HOO: Well, the Federal Superfund is
26 involved, but as far as cost recovery, yes, we've been engaged
27 in litigation over the cost of the cleanup at the Stringfellow
28

1 site for many years now. And, in fact, the Stringfellow cost
2 recovery action was one of the first actions, cost recovery
3 actions, that the Department has initiated.

4 SENATOR AYALA: Thank you.

5 CHAIRMAN ROBERTI: Senator Petris.

6 SENATOR PETRIS: I have a letter here from a company
7 in my district, DRC Drew Resources Corporation. Does that ring
8 a bell? They're having big problems trying to comply with
9 various statutes, and problems in particular with SB 27 that
10 they feel conflicts with other parts of the law.

11 They spent about \$2½ million trying to comply, and
12 they're not out of the woods yet. There's a long letter here, a
13 copy of which was sent to you, but I'm sure you get a lot of
14 letters.

15 MR. SOO HOO: Yes.

16 SENATOR PETRIS: It's dated December 30.

17 MR. SOO HOO: Senator, I can't say that I remember
18 that letter at this point, but I will be happy to -- to go back
19 to my office and -- and find out and get back to you.

20 SENATOR PETRIS: We'll see that you get a copy that
21 we have.

22 MR. SOO HOO: Okay.

23 SENATOR PETRIS: It addresses serious concerns about
24 the unpermitted and interim status situation in the precious
25 metal recycling industry. That's one of those covered by
26 Senator Wright's bill.

27 Well, we can't explore it since you're not familiar
28

1 with it. I'd like to send you a copy and invite your reaction
2 to it.

3 MR. SOO HOO: My -- my sense is that probably is
4 involved with the tiered permitting program that we're
5 implementing. And the precious metal recyclers are, in fact, a
6 group that we are sensitive to because we've heard from
7 different companies within that industry.

8 And the tiered permitting program is going to go
9 forward with a good number of public workshops that we'll be
10 conducting with the regulated members of that -- of that
11 industry, and we will be working with them to reach some
12 resolution.

13 SENATOR PETRIS: The letter quotes from the 90-day
14 External Program Review that you mentioned and quotes directly
15 from it a couple of paragraphs here that seem to agree with the
16 position he's taking on the dangers to the environment that are
17 involved here.

18 So anyway, we'll follow through on it.

19 MR. SOO HOO: I'll be more than happy to see what we
20 can do.

21 SENATOR PETRIS: I just have another question in a
22 different area, administration. We've heard that the Cal EPA --
23 you're part of that?

24 MR. SOO HOO: Yes.

25 SENATOR PETRIS: Has been making it a practice to
26 borrow staff from various departments, and that sometimes
27 interferes with the departmental operations.
28

1 I guess that's a reaction to the recession, and the
2 fact that we're all short of staff, so we beg, borrow and steal
3 staff from where ever we can. But it seems to be seriously to
4 the detriment of the borrowee.

5 Do you have any knowledge of that?

6 MR. SOO HOO: Senator, I think that one -- one of the
7 effects that makes the use of staff and expertise amongst the
8 Cal EPA organizations, as well as with -- between the
9 organizations and Cal EPA, is the fact that a good number of the
10 organizations, including Cal EPA itself and my Department, are
11 brand-new departments. We were created in July of 1991, and a
12 lot of the processes and procedures that are established in a
13 long-established organization are not established when you're a
14 brand-new department. And so, it is not unnatural that a lot of
15 effort and attention will be paid, including the use of staff
16 and the exchange of staff, to deal with what is basically the
17 problems of a brand-new organization.

18 Cal EPA is brand-new. The Department of Toxic
19 Substances Control is brand-new. The Office of Environmental
20 Health Hazard Assessment is new.

21 So, I think that some of what occurs is -- occurs
22 naturally because of that circumstance.

23 SENATOR PETRIS: Some of the personnel aren't new.
24 They were transferred over from other departments; aren't they?

25 MR. SOO HOO: We -- we have loaned some -- some of
26 our staff to help out with Cal EPA in setting up procedures,
27 but, you know, the employees will be there for that term, and
28

1 they will be returning to the Department.

2 SENATOR PETRIS: Last year, during Secretary Strock's
3 confirmation hearing, there were a lot of witnesses who
4 complained about the impact of certain installations in
5 different parts of the state on the environment. He promised to
6 look into it and see what he could do to get it cleared up.

7 One was the National Cement incinerator in Kern
8 County, the impact of that on Antelope Valley. The Dow Chemical
9 incinerator proposed for Martinez, and the Masonite Company in
10 Ukiah.

11 Are you familiar with any activities that are going
12 on now in response to those complaints?

13 MR. SOO HOO: As far as the Dow Chemical incinerator,
14 my understanding is that Dow -- recollection is that Dow has
15 withdrawn their permit application to operate that incinerator.
16 So, I don't believe that the Dow Chemical situation is in fact a
17 current issue at this time.

18 The Masonite Company in Ukiah, I believe, is a
19 situation that involves some site cleanup effort, I believe, of
20 the Department. And I'm not sure that I remember what the
21 concern was expressed by the speaker at Secretary Strock's
22 confirmation, so I'm not sure I can respond to that.

23 SENATOR PETRIS: Well, there were three different
24 groups from different parts of the state, and they all talked
25 about public health. It wasn't just cosmetic improvement of the
26 environment, you know. It was direct impact on the health of
27 the people in the area.

28

1 Maybe you could trace that back.

2 MR. SOO HOO: I will just have to check into what the
3 allegation was, and I'll be happy to --

4 SENATOR PETRIS: You might want to check with Mr.
5 Strock, because he was familiar with it, and he said he would
6 take action on it. And I assume that would mean he would ask
7 you to do it. You might want to check with the boss.

8 MR. SOO HOO: Okay.

9 As far as the National Cement facility, my
10 recollection was that the concern over there was the issuance
11 -- whether or not there would be an environmental impact report
12 issued over the renewal of the permit, I believe, for National
13 Cement.

14 At this point in time, there still has been no final
15 decision made on the permit renewal and whether or not an EIR
16 will be required.

17 What has occurred is that we have noticed a draft
18 negative declaration, and that has -- it will trigger -- has
19 triggered a comment period for the responsible government
20 agencies. Later we will also be noticing a public comment
21 period for the community and the public to submit comments as
22 well.

23 But certainly, we will be ensuring that our decision
24 fully complies with what CEQA requires. If the information
25 suggests that an environmental impact report is what's
26 appropriate, we will require an environmental impact report.
27 And if the information and data suggest that a negative
28

1 declaration is required, we will proceed.

2 SENATOR PETRIS: Thank you.

3 CHAIRMAN ROBERTI: Is there anyone here in support of
4 the nomination who wishes to come testify? If you could come
5 forward and make your testimony brief.

6 MR. GABRIEL: Thank you, Mr. Chairman, Members.

7 My name is Eddie Gabriel, representing the
8 Asian/Pacific State Employees Association.

9 I believe a formal letter has been sent to you from
10 our current President, Mr. Patrick Lam, who is unable to be here
11 today.

12 My purpose for my attendance here today is to
13 reaffirm our support of Mr. Soo Hoo's appointment to the
14 directorship, and we respectfully request your favorable
15 consideration.

16 CHAIRMAN ROBERTI: Thank you very much.

17 Anyone else here in support?

18 DR. MCKONE: I have copies of this.

19 CHAIRMAN ROBERTI: Please give it to the Sergeant,
20 and he will distribute it.

21 DR. MCKONE: My name is Thomas E. McKone. I'm
22 currently a Senior Scientist in the Environmental Sciences
23 Division at the University of California Lawrence Livermore
24 National Laboratory in Livermore. I'm also a lecturer and
25 associate with the Environmental Toxicology Department at the
26 University of California, Davis. I have a Ph.D. from UCLA.

27 Let me first state that the opinions I express here
28

1 are my own and do not necessarily reflect policies of the
2 Lawrence Livermore National Laboratory, the University of
3 California, or the U.S. Department of Energy.

4 I'm here today to testify in support of the
5 appointment of Mr. William Soo Hoo as Director of the California
6 Department of Toxic Substances Control, which I will refer to as
7 DTSC. Through the health and regulatory research initiated and
8 supported by DTSC, I have witnessed the very positive impact of
9 Mr. Soo Hoo's leadership and the progressive use of new and
10 innovative scientific findings and programs within the DTSC.

11 As a scientist at the Environmental Sciences Division
12 at Livermore, I have been involved in a number of national and
13 international research programs, including those funded over the
14 last five years by the DTSC and the predecessor program that
15 was part of the Department of Health Services. In my own view,
16 there is in the next decade a major opportunity facing the DTSC
17 as well as other regulatory agencies dealing with toxic
18 substances control and environmental protection. This
19 opportunity has been noted by many, but may have best been
20 stated recently when the New York Times, in an editorial,
21 actually, addressed to Bill Clinton, made the following
22 statement, quote:

23 "Money and laws have not achieved
24 consensus on environmental control.
25 America is swimming with green activists
26 and with energetic critics who believe
27 that the cleanliness campaign exacts too
28

1 great a toll on jobs and economic growth.
2 Our opportunity now is to bridge the gap
3 ... enabling the government to fulfill its
4 historic role as custodian of the nation's
5 natural resources. It means setting
6 priorities that reflect real, not
7 imagined, risks. It means sticking to
8 well-articulated goals."

9 In my work with the DTSC under Mr. Soo Hoo's
10 leadership, I have already seen this important opportunity
11 articulated. One clear example of this effort is his creation
12 of the Office of the Science Advisor. The creation of this
13 office and its role in providing counsel to the Director is, I
14 believe, an important step for ensuring that sound scientific
15 data and analysis are part of the DTSC's regulatory actions.
16 Clearly, the priority has been set on science and realistic
17 assessment of risk as a means of bridging the gap between the
18 need for environmental protection and the need for streamlining
19 regulation.

20 Over the past year, I've had the privilege of working
21 with the DTSC's Office of the Science Advisor to develop a
22 scientifically defensible but relative simple process for
23 setting cleanup goals at hazardous waste sites. This process,
24 which is names "CalTOX", allows for real-world scientific
25 considerations and was designed to avoid the use of excessively
26 conservative approaches, but focus instead on expected outcomes
27 and the precision with which they can be defined. This more
28

1 realistic approach avoids the use of highly conservative methods
2 that might lead to excessive regulation or to a misallocation of
3 societal resources.

4 This work was carried out in a cost effective manner.
5 We completed the major development work for around 200,000.

6 In contrast, the U.S. Department of Energy is now
7 spending millions of dollars, and not at Livermore, by the way,
8 for a similar effort. This DTSC-sponsored research has been
9 given extensive scientific peer review, and the comments have
10 been laudatory. To quote from a few, for example, from the
11 Carnegie-Mellon University, they stated, quote:

12 "CalTOX represents a significant
13 scientific advance for integrated
14 environmental fate and exposure models of
15 this type. The comprehensive coverage of
16 potential exposure routes is particularly
17 noteworthy. This is a model that can
18 rightfully be viewed as a repository for
19 much of the current knowledge of
20 environmental pollution and exposure
21 processes. Furthermore, the approach for
22 characterizing uncertainty is appropriate
23 and effective."

24 End quote.

25 And from the Office of Research and Development of
26 the U.S. Environmental Protection Agency, we received this
27 comment, quote:
28

1 "This work is impressive in terms of the
2 scope of effort and technical innovation.
3 The model promises to be an important
4 tool. The model is comprehensive in its
5 treatment of the transport, transfer, and
6 transformation of soil contaminants; the
7 mass balance equations were carefully and
8 correctly developed."

9 End quote.

10 I should also add that this work has begun to attract
11 international attention, both in the Americas and in Europe.

12 In summary, let me emphasize my perspective as an
13 environmental scientist that, in a time when fiscal resources
14 are limited, an agency such as DTSC must balance the need for
15 environmental protection with the need to foster a healthy
16 economic climate by minimizing cumbersome regulations. In my
17 own view, this balance is best served when the DTSC relies on
18 science-based standards and a process for addressing the limits
19 of precision in the science that supports the risk assessment.

20 Under Mr. Soo Hoo's leadership, the DTSC has moved in
21 advance of other regulatory agencies to embrace this important
22 opportunity. Again, I am here to testify in support of Mr. Soo
23 Hoo's appointment. Your support of his appointment will, in my
24 view, allow DTSC to maintain its scientific leadership in risk
25 assessment and risk management.

26 Thank you for providing me an opportunity to testify.

27 SENATOR CRAVEN: Thank you very much.
28

1 Anyone else? Come forward, state your name, please.

2 MR. WEINER: Thank you, Senator Craven.

3 I'm Peter Weiner. I'm presently Chairman of the
4 Environmental Department at Heller, Ehrman, White & McAuliffe, a
5 west coast law firm.

6 I've been involved in toxics policy legislation and
7 implementation for the last 13 years here in Sacramento. And
8 I'm here to support Mr. Soo Hoo's confirmation.

9 Bill has a unique combination of environmental vision
10 that is incredibly creative, inclusionary process, and very
11 tough-minded enforcement and practical management. I don't
12 think we've ever seen this kind of leadership at the Department
13 before, or when it was part of the Department of Health
14 Services. It is certainly welcome to see it now.

15 Over the last year, the 90-day Review Committee that
16 Bill talked about at some length really was a very important,
17 innovative process. It wasn't your good old blue-ribbon
18 committee. It truly was a working committee that resulted in
19 changes in the Department that the Department has implemented.

20 I think these changes, in all fairness, have resulted
21 both in the streamlining that is often talked about, but also in
22 more environmental protection, more tough-minded enforcement,
23 and more discussions and open doors for both the environmental
24 community, scientists, and industry.

25 The Office of Science Advisor, which has been
26 referred to at some length, the same.

27 The environmental technology initiative that Mr. Soo
28

1 Hoo has been involved with is not only innovative but essential,
2 because it truly is the way we can save our planet.

3 I hope you will support Mr. Soo Hoo's confirmation.
4 Thank you.

5 SENATOR CRAVEN: Thank you, sir.

6 MR. PIATEK: Good afternoon. My name is Steve
7 Piatek, and I'm the Environmental Health and Safety Manager for
8 Huntway Refining Company.

9 I appreciate the opportunity to be able to speak
10 today in support of Mr. Soo Hoo's confirmation as Director of
11 the Department of Toxic Substances Control.

12 By way of background, Huntway is a small independent
13 refiner based in the Los Angeles area. The company also has
14 manufacturing facilities in the San Francisco Bay area.

15 The company is a member of the Western States
16 Petroleum Association, the Western Independent Refineries
17 Association, and the California Coalition of Independent Marine
18 Terminals and Refiners. All the groups as well as Huntway
19 recognize and believe that environmental protection and economic
20 growth are not mutually exclusive. My comments today represent
21 the views of those groups and myself.

22 California's environmental programs are unique.
23 They're some of the most stringent in the nation, and rightly
24 so. We as Californians have much to protect.

25 California's economy is also unique. It was once the
26 envy of the nation, but currently it's languishing.

27 This does not mean that we should give up or roll
28

1 back environmental programs. On the contrary, the majority of
2 the state's regulations are sound, but as with all programs,
3 they need to be constantly fine-tuned and upgraded.

4 In order to develop environmentally as well as
5 economically sensitive programs, the various stakeholders need
6 to be able to communicate their concerns. Mr. Soo Hoo has
7 worked hard to bring both industry and the environmentalists
8 together during the development of regulatory initiatives and to
9 evaluate the Department's existing programs. The Department has
10 established an advisory committee to provide ongoing input to
11 the Department on its regulatory programs. The committee's
12 membership includes all the stakeholders, and as time goes on,
13 will be an important filtering mechanism.

14 I've been involved with numerous governmental
15 advisory committees as a technical representative of the trade
16 associations I mentioned previously. Of all the agencies I have
17 worked with in my 14-year environmental career, the Department
18 especially under Mr. Soo Hoo's leadership has been the most
19 aggressive in soliciting public input early in the process and
20 being responsive to that input.

21 Under Mr. Soo Hoo's leadership, the Department has
22 headed out in new directions, establishing new environmental
23 regulatory programs, but recognizing the existence of current
24 controls, and soliciting and listening to the views of the
25 various stakeholders.

26 Bill has a challenge before him to meet the state's
27 unique regulatory mandates, yet ensuring that the regulatory
28

1 burdens on the state businesses are hold to practical limits.

2 I believe Mr. Soo Hoo's background, knowledge, and
3 vision to carry out these programs -- excuse me, has the
4 knowledge and vision to carry out these programs in an effective
5 manner. The groups I represent and I strongly support Mr. Soo
6 Hoo's confirmation as Director of DTSC.

7 SENATOR CRAVEN: Thank you very much.

8 Anyone else? Yes, sir.

9 DR. GREENBERG: Good afternoon, Members of the
10 Committee.

11 I'm Dr. Alvin Greenberg. I'm a toxicologist from
12 Marin County, and I'm a technical consultant to the Planning and
13 Conservation League.

14 I believe you have in your file a letter of support
15 for the confirmation of Mr. Soo Hoo from our Executive Director,
16 Jerry Meral.

17 I thank you for the opportunity to say a few words to
18 you this afternoon.

19 I, too, was a member of the 90-day Review Committee,
20 and I also sit as a member of the Director's present Program
21 Review Committee. I also had been working on the advisory
22 committee for the integrated site mitigation project which was
23 two years ago. Therefore, I am speaking with personal knowledge
24 and experience, having conducted an in-depth review of the
25 Department and continuing an ongoing in-depth review of the
26 Department, that Mr. Soo Hoo does indeed deserve your
27 confirmation for his appointment.
28

1 There were two things that I personally pushed on
2 behalf of the Planning and Conservation League that Mr. Soo Hoo
3 grasped and elevated to a status that we feel is justified. One
4 of those is regulatory assistance for small business, and the
5 other is pollution prevention program, which we feel is the key
6 to controlling hazards and risks to human health and the
7 environment before they occur. And Mr. Soo Hoo has pushed these
8 programs, elevated them to the level which we think is
9 appropriate, and for that we thank him. And I think it's also a
10 reflection of his commitment to environmental protection and
11 public health protection.

12 I also want to say in all honesty that we're not
13 going to get -- we don't expect to get everything that we ask
14 for from Mr. Soo Hoo. Goodness knows, Planning and Conservation
15 League doesn't get everything it asks for from the people of the
16 State of California when we co-sponsor ballot initiatives. But
17 nevertheless, we feel that we will always be heard by Mr. Soo
18 Hoo, and we trust that he will fully implement both the spirit
19 as well as the intent of the environmental protection laws that
20 this Legislature passes.

21 With that, I want to thank you, and again, I urge
22 your confirmation of his appointment.

23 SENATOR CRAVEN: Thank you, Doctor.

24 Anyone else? Yes, sir.

25 MR. KNIGHT: I'll briefly paraphrase some comments
26 I've provided in writing.

27 My name is Mel Knight, Director of Environmental
28

1 Health and Chief of Hazardous Materials for the County of
2 Sacramento. I'm briefly going to speak to you relative to my
3 unique perspective, having done a decade of service to this
4 state, as well as to local government at which I've worked both
5 within and outside of the County and state government programs
6 in environmental regulatory affairs. I've had an occasion of
7 that to include a term of Chief of Enforcement for the State
8 Toxics Program in Southern California.

9 During that tenure, I've had extensive experience
10 with Mr. Soo Hoo, at which time I've found him to be
11 conscientious, competent, and well qualified for the role. For
12 that reason, I'm advocating his appointment.

13 I would like to also reiterate what Senator Wright
14 mentioned. I think it's very important that this stability of
15 an appointment be made as promptly as possible. The program is
16 involved in rapid change and many demands.

17 The unique perspective I'd like to offer would be
18 that I think Bill will be working for the advocacy of reduction
19 of duplication and maximizing the resource work with local
20 government. And I think that's an important issue in this era
21 of declining resources.

22 Thank you very much for this opportunity.

23 SENATOR CRAVEN: Thank you very much, sir.

24 Yes, ma'am.

25 MS. SPARKS: I have a horrible cold, so I'm going to
26 try getting through my presentation and be as brief as I
27 possible can.
28

1 My name is Jody Sparks. I'm the President of the
2 Toxics Assessment Group, a small consulting firm in Davis. It's
3 generally known as TAG. TAG works with a wide variety of
4 clients, including industry, law firms, the Attorney General's
5 Office, municipalities, environmental groups, and grassroots
6 organizations.

7 I sit on a number of advisory groups for Cal EPA and
8 the Department of Toxics. TAG has never before taken a position
9 on any nominee for any elective or appointive job. However, I
10 am pleased to support Bill Soo Hoo for the position of Director
11 of the Department of Toxics.

12 As you are aware, the Department of Toxic Substances
13 Control is faced with many conflicting demands. It has the
14 responsibility to try to fix toxics problems of the past,
15 prevent problems from developing in the future, and to establish
16 and operate programs which provide appropriate regulation of
17 toxic users and handlers without being unnecessarily onerous.
18 Complicating all of this is the tremendous public interest that
19 exists about toxics issues which results in close public
20 scrutiny of virtually all actions taken by the Department.

21 I believe that Bill Soo Hoo understands all of these
22 demands and works to deal in good faith with them. One of his
23 particular strengths is his sensitivity to all sides of the
24 issue. He makes sure that not only businesses and industry
25 interests, but grassroots, community, and environmental groups
26 have opportunities to provide input into the policy issues and
27 major program decisions. He makes real efforts to provide
28

1 balanced views in a very difficult decision making environment.

2 I know from personal experience how difficult it can
3 be for the Department to be responsive to myriad competing
4 demands and constituencies. I sit on several of the advisory
5 bodies for Cal EPA and the Department. Bill Soo Hoo
6 consistently demands that all viewpoints be represented on these
7 bodies, which makes the discussions quite interesting, but
8 assures the outcomes have the benefit of all opinions.

9 Let me give you some specific examples of the
10 Department's responsiveness under Bill Soo Hoo's leadership.
11 Access to information has been my forte for years, and it's very
12 important that community groups and members of the public in
13 general have access to information on facilities in their
14 neighborhoods.

15 There is supposed to be free access to most
16 information under the Federal Freedom of Information Act and the
17 State Public Records Act. Unfortunately, implementation of
18 these acts is not always consistent or correct. I have been
19 trying for seven years to get the Department of Toxics to issue
20 formal guidelines for the implementation of the Public Records
21 Act so that seekers of information will know exactly what
22 they're dealing with and how to proceed. Under Bill Soo Hoo's
23 leadership, guidance for the Department -- guidelines for the
24 Department have been drafted and it will be issued shortly.
25 That's a great accomplishment.

26 Another issue of importance to community groups is
27 dealing with permits, and particularly the appeals processes.
28

1 Permits have to do with -- permits having to do with toxics
2 issues are often controversial, and sometimes there are efforts
3 to use the established process simply to frustrate an applicant.

4 Under Bill Soo Hoo, the Department has issued a
5 guidance document for industrial or community interests who wish
6 to appeal permit approvals, permits that have been approved.
7 This is typical of Soo Hoo's efforts to make the rules clear to
8 everyone. Applicants, supporters, opponents, and interested
9 parties can all know what the rules are by using this document.
10 Community members know when they should provide input into the
11 process; applicants know what they must be -- what they could be
12 facing; and frivolous, untimely comments and appeals are
13 minimized.

14 I support Bill Soo Hoo for the position of Director
15 of the Department of Toxics, and thank you for your attention
16 and putting up with my voice.

17 SENATOR CRAVEN: Thank you very much. We hope your
18 cold improves. Your voice was fine.

19 Is there anyone else?

20 I think we've probably wrung out all the accolades
21 that you could possibly receive.

22 SENATOR BEVERLY: Move we recommend confirmation.

23 SENATOR CRAVEN: Thank you, Senator Beverly.

24 Senator Beverly moves the confirmation of William F.
25 Soo Hoo to the Floor.

26 Will you call the roll, please.

27 SECRETARY WEBB: Senator Ayala.
28

1 SENATOR AYALA: Aye.

2 SECRETARY WEBB: Ayala Aye. Senator Beverly.

3 SENATOR BEVERLY: Aye.

4 SECRETARY WEBB: Beverly Aye. Senator Petris.

5 SENATOR PETRIS: Aye.

6 SECRETARY WEBB: Petris Aye. Senator Craven.

7 SENATOR CRAVEN: Aye.

8 SECRETARY WEBB: Craven Aye. Senator Roberti.

9 SENATOR CRAVEN: Let's keep the roll open for Senator
10 Roberti, because I think he would like to cast a vote on this.

11 Thank you very much, Bill.

12 MR. SOO HOO: Thank you very much.

13 [Thereupon a brief recess was taken.]

14 CHAIRMAN ROBERTI: Senator Craven moves that the roll
15 be opened on the confirmation of William Soo Hoo.

16 Secretary will call the roll.

17 SECRETARY WEBB: Senator Roberti.

18 CHAIRMAN ROBERTI: Aye.

19 SECRETARY WEBB: Roberti aye.

20 CHAIRMAN ROBERTI: The vote is five to zero;
21 confirmation is recommended to the Floor.

22 The next appointment is that of James Wells, Director
23 of the Department of Pesticide Regulation, California
24 Environmental Protection Agency.

25 SENATOR CRAVEN: I have a statement here from
26 Mr. Hemly in support of Mr. Wells, and he wants it to become a
27 part of the record.
28

1 CHAIRMAN ROBERTI: Mr. Wells, we'll ask you what we
2 ask all the Governor's appointees, and that is why you feel
3 you're qualified to assume this position?

4 MR. WELLS: Yes, Mr. Chairman, Members.

5 Thanks for the opportunity to come here and review my
6 qualifications for you today.

7 I believe I am well qualified to be the Director of
8 the Department of Pesticide Regulation. I've been in this
9 business for 20 years, and I have a lot of experience right from
10 the field on up. I worked as an inspector in Fresno, starting
11 in 1973, and spent seven years out there with fieldworkers, with
12 growers in the field, learning the workplace.

13 I believe I also have a vision for the future
14 direction of the Department and pest management in general for
15 the future. I believe that the Department of Pesticide
16 Regulation has to regulate and enforce the laws, but I also
17 believe that we're in a unique position to be a leader and a
18 facilitator in transitioning both agricultural and
19 nonagricultural pest control into a more environmentally benign
20 and health protective business.

21 As I said, I started, after I got out of UC Davis, in
22 1972, I started in the field with the old Ag Chem and Feed
23 Group in the Department of Food and Agriculture in Fresno. I
24 was an inspector. I did residue work for about three years, and
25 residue investigations, and then eventually broadened out into
26 more general pest control or pesticide use investigations.

27 I helped build cases against pest control operators
28

1 for negligent drift that resulted in license suspensions. I
2 worked with Cal OSHA to successfully uphold fines against
3 doctors who failed to report pesticide illnesses. I believe
4 that was the one and only time that's been done, back in about
5 1975 or '6.

6 I wrote regulations to control drift into farm labor
7 camps and urban areas, and I culminated my field experience with
8 a year's stint with the Department of Justice, investigating the
9 illegal sales of DBCP in the Fresno area in the southern Valley,
10 actually. That resulted in a sting operation, and we had
11 successful criminal and civil prosecutions result from that.

12 In 1981, I came up to Sacramento as the Program
13 Supervisor in the then Worker Safety Branch of the Department of
14 Food and Agriculture. I was there only about six months, and I
15 went back to Pesticide Enforcement as a Branch Chief, first
16 acting and then permanent Branch Chief in Sacramento, and I held
17 that position for about eight years.

18 During that period of time, we doubled the Pesticide
19 Residue Program and actually created what became a food safety
20 program in the long run. We created an annual Pesticide Residue
21 Report that was meaningful to the reader for the first time that
22 that had been done since 1921. And we increased civil and
23 criminal penalties for pesticide violators.

24 In 1988, I became the Assistant Division Chief under
25 Rex McGee, again in the Department of Agriculture, Pest
26 Management Division. I got a more comprehensive view of the
27 entire process in my years in that capacity, and I also became
28

1 involved with U.S. EPA and several national pest control groups
2 involving pest control officials from around the United States,
3 task forces on pesticide worker safety, on certification and
4 training of applicators, et cetera. I still maintain good
5 relations on the national level with the American Association of
6 Pest Control Officials; I'm the President Elect of that
7 organization.

8 When the new Cal EPA was formed and the Department of
9 Pesticide Regulation formed with it, I became the interim
10 Director and then the Director since January, and I've held that
11 -- it's obviously the first time that position has been there,
12 so I'm the only one. I don't have any predecessors in that
13 position.

14 We did take the entire Division of Pest Management
15 from Food and Ag and moved it into Cal EPA, with the exception
16 of a small unit of bio control people who remain in Food and
17 Agriculture.

18 As I said, I believe I know the regulatory business
19 from the ground up. I've been out in the field with
20 fieldworkers, and I've been in corporate boardrooms with
21 corporate farmers. I think I understand the problems of both.
22 I understand the problems of agricultural urban interface that
23 so often pop up out there in the field.

24 I am proud of the fact that we have the best program
25 in the nation, but I do believe it can get better and it has to
26 get better. I think we're transitioning into an era where pest
27 control is going to be less reliant on chemicals and more
28

1 reliant on pest management techniques. They're going to be more
2 complex, but they're going to be environmentally friendly and
3 probably healthier for everybody.

4 I think we have to search for those techniques. I
5 think we have to encourage them in the Department. I think
6 that's part of Cal EPA's role in this whole -- in this whole
7 ball game.

8 I believe that realistic pesticide regulation should
9 be based on science. I think it should be administered fairly
10 and firmly.

11 I think I have -- I think it's going to take a strong
12 knowledgeable leadership and a broad constituency, bringing in
13 elements that we really never brought into this picture before,
14 to go forward and go where we have to go.

15 I think I'm qualified to provide that leadership, and
16 I thank the Committee for their consideration. I'd be happy to
17 answer any questions.

18 CHAIRMAN ROBERTI: Yes, Senator Petris.

19 SENATOR PETRIS: A few questions, Mr. Wells. Things
20 I've gone over with you in the past, I'm sure, but I'd like to
21 have an update and see what's going on presently, and what
22 you're looking at in the future.

23 First, I go back to the statute, Section 13129 of the
24 Food and Agriculture Code, gives the Director, which now means
25 you, the authority to cancel or suspend any substance if a study
26 shows that the health effects -- a study of the active
27 ingredients shows that a pesticide product containing the active
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1 ingredient presents significant adverse health effects,
2 including reproduction, birth defects, or infertility,
3 abnormalities.

4 Now, to go back a little bit, we had SB 950 over
5 which there was a considerable tussle, but it's been in place
6 for some time to fill the data gaps. Some of the companies
7 complied immediately, the chemical manufacturers. Others
8 struggled against it, and some still are. Most of them have
9 filled the data gaps, so we know now a lot of information about
10 the characteristics of pesticides that we didn't know before.

11 It turns out that some of them have very serious
12 birth defects and some of them don't. Some of them are inclined
13 to tilt toward cancer.

14 And then what your Department did was to develop a
15 list. You have 46 high priority active ingredients, which means
16 they're pretty toxic under the SB 950 definition, and indicate
17 that these 46 have possible adverse effects of the kind we're
18 talking about. One of them is benemil, classified high priority
19 due to possible adverse effects on the things we're talking
20 about.

21 I'm mostly now in the area of birth defects. Worried
22 about unborn children.

23 Now, the first question I have, out of these 46, have
24 you cancelled any of them that fall in this category of the bad
25 ones?

26 MR. WELLS: No. That list -- the last list of 46
27 came out, I think, last June, is -- it's what left of the high
28

1 priority chemicals.

2 Basically we prioritize whenever we need to, and it
3 generally is about a couple times a year. As new chemicals come
4 in, new information comes in, we re-prioritize that list. So,
5 that list of the remaining 36, 32 of them are currently in the
6 risk assessment process in one phase or another.

7 The priority list -- the criteria is that there be an
8 indication of a significant adverse effect in -- in an animal.
9 And also, part of that is based on the amount of use. So, it
10 isn't necessarily -- those aren't necessarily the most toxic,
11 but the ones that have indications of problems and widespread
12 use.

13 We have under 950, which is just one of the reasons
14 we do risk assessment, we've completed 8 risk assessments under
15 950, and 4 of the chemicals of those 8 have been withdrawn from
16 the market either during or at the conclusion of those risk
17 assessments. So, 9 have been completed, and the 46 on that list
18 are the ones we're working on. And we've got 32 of those in the
19 process right now.

20 SENATOR PETRIS: Four were withdrawn by the companies
21 themselves when they saw the reports; right?

22 MR. WELLS: Well, yeah, that's right.

23 See, the way it works is, we don't have to have all
24 the data in for a particular chemical before we start doing a
25 risk assessment. We just have to have enough data that we can
26 do a quantitative risk assessment.

27 In some cases, we got -- some cases might be one
28

1 study. We may get one study that's a good study, complete
2 study, that shows an adverse effect that it's clear enough for
3 us to do for a -- quantitative enough for us to do a risk
4 assessment. And then, if that risk assessment indicates a
5 significant adverse effect, we take action.

6 I can cite one particular chemical called cyhexadon,
7 that when we got to the point where we decided it was a
8 significant problem, we notified the company we were going to
9 initiate action. They withdrew from California, and then they
10 withdrew their registration at U.S. EPA, so they're out
11 nationally.

12 So, that's -- that's kind of the way it's been going
13 in California. We never get to the cancellation process.

14 SENATOR PETRIS: I guess your answer is, none of them
15 has been cancelled by the state?

16 MR. WELLS: None on that list of 46, but there are 32
17 that are in the process of assessments.

18 See, once we get the -- the information on the list
19 that indicates a possible adverse effect is sometimes -- it
20 could be anything from maybe a couple of pups in a litter had
21 low birth weight, to something that is -- that's more dramatic.
22 The fact that it shows up in an adverse effect is the starting
23 point for us to require the data under your bill, and then to
24 evaluate that data when it comes in.

25 And what I'm saying is, for 32 of those 46, we're in
26 the evaluation process. We have to look at the data that comes
27 in, the studies themselves, and then the exposure potential,
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1 which is another part of the risk characterization process that
2 was set up under the Birth Defects Act.

3 SENATOR PETRIS: Can you walk me through the process?
4 You have 32 of them now that are going, that because of the
5 reports that have come in by the independent study indicate
6 possible adverse effect. You want to know for sure whether it's
7 just possible, or highly likely?

8 MR. WELLS: Basically the --

9 SENATOR PETRIS: What is this evaluation process
10 consist of?

11 MR. WELLS: It's what we call a risk characterization
12 process. It consists of several different parts.

13 One part we call hazard identification. The reason
14 those chemicals got on the list is because in some study or
15 another, probably even prior to the advent of the Birth Defects
16 Prevention Act, there was some study that showed a potential
17 adverse effect. That gets them on the list, and we ask for the
18 data on a priority basis under the act.

19 When that data comes in, we have what we call an
20 exposure assessment phase, where we look at the use practice,
21 the use pattern, to see what the exposure is. And we have a
22 risk identification phase where we -- or hazard identification,
23 where we see what's the basic toxicity of this chemical.

24 You have to relate -- because all these studies are
25 done on animals, you have to try to relate the effect in an
26 animal to an equivalent effect in humans. So, you have to
27 develop a no effect level, and try to determine what the human
28

1 exposure is, and then is there a possibility that this effect
2 can occur in human beings.

3 That's the point where we drop the hammer on them.

4 SENATOR PETRIS: How do you do that? Is that a
5 mathematical process? You put a multiplier in and say it takes
6 this much more for the humans?

7 MR. WELLS: Well, it depends on the type of toxicity,
8 but that's roughly the way you do it.

9 If it's a potential cancer causer, the assumption is
10 that it will cause -- there is some finite risk of it causing
11 cancer at any level. And so there, you have to draw up -- you
12 have to rely on what we consider to be a negligible risk level.
13 and for our purposes, and it's commonly accepted in science
14 right now, to use one in a million or one in a hundred thousand,
15 depending on the circumstances and the strength of the studies.

16 So for cancer, you look at what is the relative risk,
17 and you have a cutoff where the risk is unacceptable.

18 For a noncancer effect, where there's actually a
19 threshold, you look at the no effect level on animals; you add a
20 multiplier of ten-fold for the difference between animals and
21 people, and then you add another multiplier factor of ten-fold
22 for the difference in the human population from, say, the
23 weakest human being to the strongest. So, you end up with a
24 margin of safety of a hundred.

25 So, for effects like birth defects, or acute toxicity
26 effects, you're looking for a margin of safety of a hundred. If
27 you don't make that margin of safety, that's when you take your
28

1 suspension or your cancellation action. In this case, it would
2 be cancellation.

3 SENATOR PETRIS: I'm aware of the three that we're
4 looking at: cancer, reproductive effect, and birth defects.

5 Right now, I'm more concerned about birth defects.
6 That's what triggered the whole bill with organizations like the
7 March of Dimes, and, you know, all the medical people that were
8 very concerned about the possible effect of these.

9 Now, is the principle source of making this list the
10 independent lab tests that are done as required by this law by
11 the manufacturers themselves, or are there other sources also?

12 MR. WELLS: It's primarily that, but we do take --
13 when we're doing the prioritization process, that's the process
14 where we in the Department sit -- used to sit down with Health
15 Services, and now we sit down with the Office of Environmental
16 Health Hazard Assessment in Cal EPA. And we look at the data
17 that's -- the data that's submitted, whatever's in the file. If
18 new data comes in, that can cause us to re-prioritize. That new
19 data could come from the registrant, or it could come from the
20 open literature, because in the prioritization process, we don't
21 have to rely only on the registrant's data.

22 More than likely, though, new studies are done at the
23 behest of the registrant, so it is registrant data that causes
24 us to re-prioritize.

25 But the original prioritization process took place
26 way back in 1985 or '6, when we didn't have much data, but we
27 were having -- you know, we had to have that original list of
28

1 200 and then prioritize within that.

2 SENATOR PETRIS: The bill was passed in '84.

3 MR. WELLS: So, it's '85-86. I wasn't in this
4 capacity at that time, so I don't know.

5 SENATOR PETRIS: So, the hammer that you describe
6 hasn't been dropped yet on any of these?

7 MR. WELLS: Well, as I said, there were -- there were
8 a number of them that we would have dropped the hammer, but they
9 pulled them off the market. And that's commonly our experience
10 in California because, to some extent, these companies that are
11 operating nationwide and worldwide would rather pull out of
12 California than face a cancellation hearing in California.

13 SENATOR PETRIS: What's the action or tentative
14 action on the part of the Department that caused them to
15 withdraw? Did they see the handwriting on the wall, or did they
16 get communication from you on the phone that says, "Hey, this is
17 a real bad ingredient, and we're really not going to let you
18 sell this in California," or, "You better do this and that," as
19 a friendly warning, and then they'd drop it out?

20 MR. WELLS: There's no really friendly warning. We
21 basically -- we notify them of the outcome of our -- of our risk
22 assessment. Or, in some cases, to tell you the truth, the fact
23 that we're doing a risk assessment causes the company to do
24 their own risk assessment, and that's caused them to withdraw,
25 and we've dropped the product.

26 There's a product called Captival which we were in
27 the process of doing a risk assessment. We came up with what we
28

1 felt was an unacceptable dietary exposure, and the company
2 decided -- they looked at it themselves and apparently agreed
3 without ever saying so. They just kind of pulled it out. It's
4 kind of a no contest thing.

5 SENATOR PETRIS: Is that one of the four?

6 MR. WELLS: No, that was -- that's an additional one,
7 because we didn't do Captival because of 950. We had a
8 re-evaluation for some other purpose. So, it wasn't one of the
9 950.

10 Of the 950 ones that we've completed, the four are:
11 Amitrol, Fulpek, Cyhexadon, and I can't remember the other one.
12 They're not on that priority list because they were already
13 dropped before that priority list was created.

14 SENATOR PETRIS: Where do you go from here with this
15 list of 46? You've got 32 in the process.

16 MR. WELLS: Yeah, and that's all the way from an
17 exposure assessment is being created in our Worker Safety
18 Branch, to a hazard identification and a med tox. So, I don't
19 know the exact progress of every one of those, but where we go
20 is, we complete the risk assessment. We calculate whether
21 there's an unacceptable risk. We calculate whether there are
22 any mitigation measures that would -- would make the risk
23 acceptable, and if not, then they go out.

24 We don't have a risk benefit standard in California,
25 where we say, "Well, the risk is unacceptable, but the benefit's
26 greater than the risk." We just have a risk-risk standard as
27 set up by the legislation that was passed.

1 SENATOR PETRIS: We have an economic standard. If it
2 imposes a hardship on the company, they can still use it, unless
3 there's an alternative; right?

4 MR. WELLS: That's only for that limited area that we
5 took care of in 550 in your bill last year, yeah. That's --
6 that's an extension of time to complete the data, but they still
7 have to complete the data.

8 At the federal level, the Federal Insecticide,
9 Fungicide, Pesticide Act has an absolute economic impact
10 standard, where they will keep something on the books, keep it
11 in use if there's a significant economic benefit that they feel
12 outweighs the risk.

13 What we have in 550 is, we give them more time to get
14 the data in, but they still have to do it. And if it's
15 unacceptable, the risk is unacceptable, it still goes.

16 SENATOR PETRIS: Have there been any exceptions
17 granted by the Director based on the economic standard?

18 MR. WELLS: We've granted --

19 SENATOR PETRIS: Remember, the wording says if it
20 causes grave --

21 MR. WELLS: Extensions, we call them extensions. And
22 I had a cheat sheet on that, but I don't know, I lost it
23 somewhere.

24 I think we've granted -- we've granted 9 extensions,
25 and we've turned down 10 so far, and we've granted one deferral.
26 Remember, we had the extensions of time if they'd submitted 8
27 studies and it showed good faith, and then we had the deferral
28

1 for hardship. We got one deferral that we have granted. None
2 that we've denied, but we've got 12 under consideration.

3 Of the 10 extensions that we denied, 9 of them
4 submitted a deferral. So, we're still going through the process
5 with them.

6 SENATOR PETRIS: The extension is to give them more
7 time to work up --

8 MR. WELLS: Get the data in.

9 We've also got a complete data set for 16 of those 57
10 that we noticed in January.

11 SENATOR PETRIS: A complete what? Data set?

12 MR. WELLS: They've submitted a complete set of data.

13 SENATOR PETRIS: And now you're analyzing the data?

14 MR. WELLS: Right. Well, in the priority. That just
15 goes into the whole priority hopper. And I don't know if
16 they're on that list of 46 or not.

17 SENATOR PETRIS: How long are the extensions
18 normally?

19 MR. WELLS: Oh, I think they're granted not to exceed
20 -- the longest one could be no more than four years from January
21 1st or January 15th. I can't remember the language. But it
22 can't go beyond 1995; that's absolute cutoff.

23 Most of them are averaging two years before the data
24 will be completed.

25 SENATOR PETRIS: How many scientists are there on
26 your staff?

27 MR. WELLS: We have positions for about 30
28

1 toxicologists, and then there are a number of staff scientists
2 who are not toxicologists who work in either the exposure
3 assessment or the hazard I.D.

4 SENATOR PETRIS: But they're competent to review the
5 reports they get?

6 MR. WELLS: Yes.

7 SENATOR PETRIS: And judge the authenticity of the
8 protocols that they use, and all that, whether they're
9 toxicologists or not?

10 MR. WELLS: Well, the final decisions are probably
11 always made by the toxicologists, but they have associates
12 working for them who do some of the work up. But then, whatever
13 decision we make then, we send over to the Office of
14 Environmental Health Hazard Assessment, and their toxicologists
15 peer review our decisions. So, they're looked at twice.

16 SENATOR PETRIS: You have two of them.

17 How many of those 30 positions are actually filled?

18 MR. WELLS: I was afraid you were going to ask that.

19 I think we're probably within about four positions of
20 being filled. I could be wrong, but four or five in both
21 branches. I know we're right now -- we have an examination out
22 to fill a couple of positions. And we also have been able to
23 get a couple more authorized.

24 SENATOR PETRIS: After these two different groups of
25 toxicologists do the review, to whom do they submit the report,
26 their recommendations? Do they come to you?

27 MR. WELLS: Yes.
28

1 SENATOR PETRIS: So, you make the final decision on
2 whether the permit to sell in California is granted or not?

3 MR. WELLS: Well, I do. But our policy is that if
4 there's a recommendation to deny by any scientist, unless
5 something changes -- new data comes in, or something -- then it
6 gets denied.

7 More commonly right now, those are the new chemicals
8 coming in. We denied -- in the last two years we've denied 200
9 and some chemicals and registered 400 and some new chemicals.

10 That's the most consistent pattern, is that new stuff
11 comes in, doesn't meet the standards, and gets denied. Because
12 we haven't gotten through that many of the 950 risk assessments.

13 SENATOR PETRIS: Have any of the scientists who quit
14 under the prior administration come back?

15 MR. WELLS: No. As a matter of fact, I believe some
16 of them are in Mr. Soo Hoo's Department, and some of them are
17 over at AWEHA, and some left entirely. But they -- they
18 actually left for a number of different reasons, dan they seem
19 to have found places they're comfortable.

20 SENATOR PETRIS: Well, the reasons I heard were their
21 recommendations weren't being adopted. They were being rejected
22 by the political arm of the -- before your time, I want to make
23 that clear -- the political arm was saying, "These are our
24 friends out there peddling this stuff, and we're not going to
25 deny them the right, so forget it." And off they went.

26 That's not happening any more, I gather.

27 MR. WELLS: That's not happening. There were a few
28

1 that left for that reason. There were -- as you might imagine,
2 too, there is quite a clash when we first brought all the
3 scientists on board. There were 30 new personalities and 30
4 people then that related to the registration people, who'd been
5 doing that work all that time, and I think there were a lot of
6 jealousies and clashes at first, so we pretty much got worked
7 out.

8 We -- we accommodated the results of that
9 investigation by putting in a fail safe system where something
10 cannot be registered over the objection of a scientist.

11 SENATOR PETRIS: When was that done?

12 MR. WELLS: Right after -- in our response to the
13 report in 1989; 1990 is when we put it in place.

14 SENATOR PETRIS: You had a hand in that?

15 MR. WELLS: Yeah, I inherited that job when I was
16 working for Rex there.

17 SENATOR PETRIS: I seem to recall in your letter, you
18 pointed out that immediately after, you took certain steps when
19 you came in.

20 MR. WELLS: Immediately after the report.

21 We -- we investigated the allegations in the report.
22 And the ones that we found to be correct, we took action on
23 immediately.

24 SENATOR PETRIS: Let me refer to a Food and Ag
25 Department statement made in 1978 about Fosdrin. It says, and
26 I'm quoting directly:

27 "Fosdrin is one of the most hazardous
28

1 pesticides currently registered. Pest
2 management guides now being developed"
3 "now" meaning 1978,
4 "will recommend that it only be used as a
5 last resort chemical only when suitable,
6 safer alternates are not available. The
7 high dermal toxicity, the use of highly
8 concentrated solutions, and the high
9 volatility of normal field temperatures
10 make the provision of a safe workplace by
11 the employer almost impossible while using
12 this product."

13 That's the end of the quotation.

14 Now, we know that hundreds of farmworkers have been
15 poisoned by this substance. Yet this year, Fosdrin is still
16 approved for use in the state, and it's use level remains 90
17 percent of the level of prior years, all the way back to 1977.

18 Now, you have authority to cancel that, don't you?

19 MR. WELLS: Yes.

20 SENATOR PETRIS: But you haven't.

21 MR. WELLS: We're -- in the risk assessment, that's
22 another product that's in risk assessment right now. We'll be
23 completed in '93.

24 SENATOR PETRIS: Didn't this 1978 statement result
25 from a risk assessment? Do you think it's changed since then?

26 MR. WELLS: I don't know -- to tell you the truth,
27 I'm not familiar with the statement and where it came from. It
28

1 probably came out of the worker safety group after their field
2 investigations.

3 I wasn't aware of that statement. But it wouldn't
4 have resulted from a risk assessment because we didn't do them
5 then, to tell you the truth. It would have resulted from
6 observation in the field and looking at whatever data we had at
7 the time.

8 But we are in the process -- we just got a 1992
9 dermal absorption field exposure study on Fosdrin, and we're
10 going to complete that risk assessment in '93. And I don't know
11 that any or all of the uses are going to survive that risk
12 assessment.

13 There are some unique things about Fosdrin that,
14 while it is acutely toxic and very difficult to handle, it also
15 dissipates very rapidly. So, we don't have very many
16 fieldworker incidents. The incidents we tend to have involve
17 people in the next field when an application's going on in one
18 field, and mixer/loader applicators who are actually mixing the
19 material.

20 We did make all of that work go through a closed
21 system so people wouldn't be pouring the material. That cut
22 down the illness level when we did that. We're averaging now
23 somewhere around 30 reported investigated illnesses a year,
24 either probable, possible, or definitely associated with
25 Fosdrin.

26 But I can't deny or I wouldn't refute what that
27 statement says. Fosdrin is still one of the most highly toxic
28

1 materials in use in the field today.

2 SENATOR PETRIS: I'm wondering, in view of that, how
3 much more it takes to cancel it? It just seem to me it's a good
4 candidate for dropping the hammer. And it's got nothing to do
5 with the manufacturers or the tests. You know, they're trying
6 to sell this stuff, and they probably think it's okay. But
7 others think it's very toxic, very dangerous.

8 MR. WELLS: I think, frankly, what happened was, in
9 all the re-prioritization of activities that took place during
10 the '80s, I think it was sort of pushed to the back burner. It
11 came back up for risk assessment really as much through 950 as
12 anything else.

13 If I were to go back and be in charge in 1978, I
14 think I would have proceeded with completing an evaluation of it
15 in 1978 and taken some action.

16 But I think that it kind of got pushed to the back,
17 and it's back up to the front burner now.

18 SENATOR PETRIS: You didn't have the hammer in the
19 law at that time. You probably would have done it anyway.

20 MR. WELLS: It's questionable. The burden of proof
21 was probably greater then in terms of trying to cancel something
22 for cause, but still, a significant adverse effect, especially
23 an acute one, it would have been a battle. I don't know what
24 the outcome would have been. We did cancel a few materials back
25 in those days. We cancelled DBCP, got away with that.

26 SENATOR PETRIS: Have you cancelled any acutely toxic
27 substances at all in the last year?

28

1 MR. WELLS: The one where -- we suspended
2 ethylparathion, which is almost, I admit, anticlimactic, because
3 the EPA's suspending on a national level all but a few uses.
4 But we have suspended that -- that material for failure to
5 comply with the --

6 SENATOR PETRIS: Any others?

7 MR. WELLS: No. We did -- again, a product by the
8 name of Fozolone, which you may remember caused some fieldworker
9 illnesses a few years ago. Same -- we had the same experience
10 with that one. We notified the company we were taking
11 cancellation action, and they withdrew it nationally.

12 SENATOR PETRIS: You're aware of the statutes better
13 than anybody, and is it fair for me to assume if you get equally
14 damaging assessments in the future of some other substance, that
15 you'll use your power to cancel it out?

16 MR. WELLS: Yes. I think -- we've taken some pretty
17 aggressive action in the last year to try to enforce the
18 statutes that are on the book, and I think -- I think we're
19 going to continue to do that. Risk assessments that result in
20 significant risk that isn't mitigated result in cancellation,
21 period.

22 SENATOR PETRIS: What kind of forceful action have
23 you taken? Can you give me some examples?

24 MR. WELLS: Well, I think in -- in noticing the
25 suspension of all the chemicals that have all the data coming
26 in.

27 SENATOR PETRIS: Those are 530 something?
28

1 MR. WELLS: Well, we started out with 14 active
2 ingredients, and then I think that -- after that, we had the
3 re-negotiation or the negotiations on 550, and then we came back
4 when 550 was passed with 57 active ingredients. And we're
5 moving right forward on those. There'll be a number of those
6 that won't make the cut; they'll be suspended. And like I said,
7 16 of them, they brought the data in. I don't know when we
8 evaluate the data whether they will have significant adverse
9 effects or not.

10 SENATOR PETRIS: Do you expect to know sometime
11 during this year?

12 MR. WELLS: On all of them?

13 SENATOR PETRIS: On the ones you mentioned, the 16.
14 Will you know sometime this year?

15 MR. WELLS: Well, again, what'll happen to those is,
16 when that data comes in, we'll look at our priority list, the
17 46, and we'll fit them into that priority list. Some of them
18 already might be there; I haven't compared. And then we'll move
19 forward with the risks assessments as fast as we can, but
20 there's only so many you can do a year.

21 We're not just doing risk assessments for 950. We're
22 doing it for Prop. 65; we're doing it for new active
23 ingredients, et cetera.

24 So, those that we get to that we get reviewed, we'll
25 make decisions on.

26 SENATOR PETRIS: What kind of actions do the
27 manufacturers take when they're alerted to the fact that you're
28

1 going through a risk assessment and they might have a problem?
2 Do they file their own reports with a different interpretation?
3 Their own arguments, not the reports. You're all working,
4 presumably, with the same reports.

5 MR. WELLS: Well, they are the same reports.

6 But what -- sometimes what will happen is, they'll go
7 out and they'll submit new data that they hadn't submitted
8 before, or they'll conduct new tests.

9 A lot of times what happens is, we look at the
10 studies themselves and say these studies are inadequate. We
11 refused to register a lot of materials in the last two years
12 because the studies themselves were inadequate to make a
13 determination. And their response then is to go back and do an
14 adequate study and resubmit.

15 But there are a number of different -- sometimes they
16 -- they dispute the toxicology, and they have the opportunity to
17 come in and, you know, make their arguments. But we're rarely
18 overturned unless somebody does a new study that shows something
19 that we didn't know before.

20 SENATOR PETRIS: In the mix, would you call it the
21 mixers where you cut down the incidents, are minors allowed to
22 do the mixing?

23 MR. WELLS: They are except for certain materials.
24 Well, the way the regulations read, no one under 18 can mix or
25 load a Category 1 material, highly toxic material, or a material
26 that requires the use of air supplied breathing apparatus, or a
27 material that requires a full-body protective suit.
28

1 So, it's basically the Category 1s they can't mix and
2 load, and some others. But they could mix and load Category 2
3 material or some other pesticide.

4 SENATOR PETRIS: I thought the regulations had a 16
5 year age limit.

6 MR. WELLS: Pardon?

7 SENATOR PETRIS: I thought the age was 16 rather than
8 18.

9 MR. WELLS: In -- I just looked it up; it was 18. My
10 book may be old. I don't know. Sixteen? You got me there.

11 SENATOR PETRIS: We were wondering whether they
12 should even be allowed at 18, depending on the substance, but
13 the minor role is regulated by the degree of danger, I suppose.
14 If it's more dangerous, they're not allowed to take part.

15 MR. WELLS: that -- that's the philosophy behind it.

16 SENATOR PETRIS: What's the actual practice?

17 MR. WELLS: Pardon?

18 SENATOR PETRIS: What's the actual practice?

19 MR. WELLS: About who's mixing and loading?

20 SENATOR PETRIS: Yes.

21 MR. WELLS: Well, we better not catch somebody under
22 the 18.

23 What it -- it isn't the person themselves that's in
24 violation. It's the employer of that person that's held in
25 violation.

26 SENATOR PETRIS: What's the penalty?

27 MR. WELLS: I don't know if we've ever caught
28

1 anybody, but it -- it would be a misdemeanor or -- like any
2 other penalty in the Code, unless it was a repeat offense. It
3 could be up to \$5,000.

4 SENATOR PETRIS: That's like going through a stop
5 sign. That's a misdemeanor.

6 MR. WELLS: Well, yeah, that's true. Well, we -- we
7 have what they call a felony wobbler for repeat offenses. The
8 initial offense, I think we can issue a fine up to \$5,000 now.

9 SENATOR PETRIS: Well, I'd like you to check that
10 regulation further. We had the impression it's 16, and I'd
11 rather see it at 18, frankly. I think your better nature
12 spilled out the 18.

13 MR. WELLS: Well, I also just looked it up, but to
14 tell you the truth -- we'll check that out. It should be 18.

15 SENATOR PETRIS: Now, on another area, the posting.
16 That was my very first bill 25 years ago. It took 20 years to
17 get it passed, so I'm interested -- to get it signed by the
18 Governor, I should say.

19 I'm interested in what the current status is on
20 posting and the re-entry levels?

21 We fought very hard to pull them back to one day
22 instead of the seven days or eight days. What is the practice
23 today?

24 MR. WELLS: Practice today is to post anything with a
25 re-entry interval over seven days -- to post anything with a
26 re-entry -- any toxicity Category 1 two days or over on eight
27 specific labor intensive crops, and to post grapes and tree
28

1 fruit and citrus -- I believe citrus is in there -- if it
2 results in a re-entry interval of two days or more after April
3 1st. We found that there's a differential on the decay rate of
4 pesticides in the warmer weather.

5 So, if you apply to grapes or tree fruit after April
6 1st a toxicity Category 1 material, then you have to post. Or,
7 if you apply any time and results in a re-entry interval over
8 seven days on tree fruit and citrus, or if you apply a Category
9 1 material that results in a two day or more re-entry interval
10 on eight vegetable crops -- or, there's seven vegetable crops
11 and, I think, flowers, then you have to post.

12 SENATOR PETRIS: Post when? Do you ever post on the
13 first day?

14 MR. WELLS: No. I don't believe there's anything
15 that results in -- if there's only a 24 hour re-entry interval.

16 Now, the Federal Farmworker Protection Standards,
17 which are to take effect -- I think the labels have to be
18 effective in April of '94, will require any Category 1
19 application to result in posting.

20 SENATOR PETRIS: I don't remember which bill. In one
21 of the bills, we were trying very hard to get the earliest
22 possible posting date, especially for the more toxic substances,
23 and the growers and manufacturers felt seven days is enough. Do
24 it on the 7th day. That doesn't seem right. That's why --

25 MR. WELLS: That's why we -- we implemented the
26 regulations -- after your SB 269 a few years ago, we implemented
27 regulations to go down to two days for those labor intensive
28

1 crops.

2 There's a little different approach, but it
3 accomplished pretty much the same thing.

4 SENATOR PETRIS: Well, you remember, we made a
5 distinction between labor intensive crops and the others. Labor
6 intensive were the most serious because a lot of people are
7 around, and we wanted to take action as soon as possible.

8 Why don't we just post all labor intensive crops on
9 the first day?

10 MR. WELLS: Well, the theory, I think, is that if the
11 chemical is toxic, a highly toxic material, the re-entry
12 intervals are almost always at least 48 hours. So, in a way,
13 you're accomplishing that.

14 If it's a -- it isn't like you wait a day and then
15 post. You have to post at or before the time the application is
16 completed. The sign has to go up.

17 The highly toxic materials that are likely to cause
18 the real illness problems, where you really want people to be
19 aware of the fact there's a problem, almost always have re-entry
20 intervals of at least two days. So, that's why -- two days or
21 more. It isn't over two days.

22 And the seven-day posting is over seven days. For
23 the two-day posting, it's two days or more. So, it's 48 hours,
24 basically, or more.

25 SENATOR PETRIS: The proper posting time, is it just
26 before or at the time of the application?

27 MR. WELLS: Prior to completion.
28

1 SENATOR PETRIS: Now, are you always required to
2 follow the feds EPA nationally, that makes a policy, do you have
3 to follow it? Do they pre-empt us, or can we do better if we
4 want?

5 MR. WELLS: No, we can do -- we can't do less. We
6 can do more.

7 SENATOR PETRIS: With respect to posting, I notice
8 that they recently removed the skull-and-crossbones from the
9 signs. Is there any danger that might happen here?

10 MR. WELLS: Federal -- that's one of the things we
11 have to work out with U.S. EPA, because they -- their sign does
12 not have a skull-and-crossbones on it. That was a hotly
13 contested issue at the national level.

14 We would -- if we want to keep our skull-and-cross-
15 bones, basically, we have to negotiate a deal with EPA to make
16 sure that they would consider it equivalent to.

17 The only way that I could see --

18 SENATOR PETRIS: Why is that?

19 MR. WELLS: They could pre-empt us if they said
20 theirs was better. If they said that they felt theirs was more
21 protective and communicated the message better, and they said
22 ours wasn't as good, then we could have a pre-emption problem.

23 SENATOR PETRIS: Well, they apparently believe that
24 now, or they'd keep the skull-and-crossbones.

25 My understanding is that they did it because somebody
26 said it would frighten passers-by. They aren't farmworkers, and
27 they're not neighbors, they're just driving by and they see this
28

1 skull-and-crossbones, and it scares them.

2 That's a pretty weak reed on which to lean to make
3 national policy, it seems to me. And if they have authority to
4 say to you, "We determine that this is better than yours," you
5 don't have any leeway to assert your own policy?

6 MR. WELLS: We have a pretty good relationship with
7 EPA, and we also tend to, when we have those kinds of problems,
8 we tend to submit data. So, we would try to find data in
9 support of our position on that.

10 SENATOR PETRIS: Are you negotiating with them now on
11 that?

12 MR. WELLS: We're not yet. We have a number of
13 things.

14 The EPA standards, basically, in some cases are still
15 not as good as ours, and in some cases they may be tighter. And
16 in some cases, it's just a matter of them being different.

17 And we are trying to negotiate some equivalency, so
18 we can say, "We think this is equivalent to or better than what
19 you've got, and we want your reading on it."

20 And I know we have sent a number of questions back
21 there, and we have a bunch more to send back there.

22 SENATOR PETRIS: But historically, ours has been
23 tougher than theirs.

24 MR. WELLS: Oh, yeah.

25 SENATOR PETRIS: By a lot.

26 MR. WELLS: Oh, yeah.

27 SENATOR PETRIS: Do they ever come out here for
28

1 meetings?

2 MR. WELLS: Pardon?

3 SENATOR PETRIS: Do they ever come out here for
4 meetings?

5 MR. WELLS: Yeah, and we meet regularly with
6 Region 9.

7 SENATOR PETRIS: Regional?

8 MR. WELLS: Yeah, the regional people.

9 SENATOR PETRIS: Maybe you ought to hang a skull-and-
10 crossbones outside the door. When they come in and they see
11 that, maybe they'll take notice, huh?

12 MR. WELLS: There was an argument, and I was part of
13 the original Federal Farmworker Negotiating Team when it was a
14 negotiating team, and the argument that we kept hearing was that
15 if people see a skull-and-crossbones on food crops, they won't
16 want to eat food. But we didn't really subscribe to that
17 argument.

18 SENATOR PETRIS: Now, on the minors again, as I
19 understand it, the regulation provides that a minor may not mix,
20 but it doesn't prohibit the minor from applying the pesticide.

21 Shouldn't that ban extend to application as well, as
22 far as exposure of that minor is concerned?

23 MR. WELLS: That's something we probably ought to
24 consider.

25 The rationale behind that, as I recall, was that the
26 application is of the dilute material in most cases, and the
27 dilute material's not as hazardous, obviously, as the
28

1 concentrate.

2 That's something we could re-visit. To tell you the
3 truth, it hasn't come up in a long time.

4 SENATOR PETRIS: I'd like very much for you to re-
5 visit that. That seems to me to be some kind of a gap there
6 that ought to be closed.

7 MR. WELLS: Yeah.

8 The illness reports, the illness investigations don't
9 indicate that we have a lot of minors out there getting in
10 trouble, but then, we may just be missing them.

11 SENATOR PETRIS: Now, on the overall duty to enforce
12 the pesticide laws, that's done by the counties?

13 MR. WELLS: In association with us, yes.

14 SENATOR PETRIS: I was looking over a chart that
15 shows how this has been going, and I was absolutely startled --
16 and we'll give you a copy of it, and the Members -- to see that
17 the ones that have imposed the most fines for violations of the
18 pesticide laws are the urban areas: Los Angeles and San Diego.
19 You can see the chart: L.A. has 118 during 1990 and '91; San
20 Diego, 89; Kern County, one of the biggest agricultural counties
21 in the country, has only one. Tulare has six, Kings has one.
22 And Fresno, which is known around the world for its agricultural
23 activity, has 23, a lot more than the others. Madera has 8.

24 That seems to me to be very strange. Are you aware
25 of that? Are you familiar with those numbers?

26 MR. WELLS: Apparently we produced -- no, these came
27 off our Report #5.
28

1 I've never seen this graphic display, but I wouldn't
2 -- this is for the year 1989. I wouldn't dispute it.

3 SENATOR PETRIS: Do you have a report for any later
4 year, '90 or '91?

5 MR. WELLS: You know, all I have is the -- yeah, we
6 have a Report #5, which is where this came from, for 1990, and
7 1991, I think, is complete. But I don't have it with me.

8 I don't know what those numbers look like.

9 SENATOR PETRIS: The ones I read you were 1990-91,
10 actually, not '89.

11 MR. WELLS: Oh, okay.

12 SENATOR PETRIS: There's another one on 1990-91,
13 showing -- it groups them together. For L.A., it shows 118, and
14 for the eight Valley counties put together, where all the
15 agriculture is, it's only 59.

16 That suggests to me that the commissioners are not
17 too vigorous in their enforcement if the city boys are doing --
18 I'm not saying those farms are in the City of L.A., but they're
19 in the County -- but the urban people seem to be much more
20 vigorous in enforcing.

21 I'd like to review that as well and see how you
22 interpret it, and what we can do to beef up the enforcement.

23 MR. WELLS: I'd like to say, we -- we have launched
24 an initiative just this year to develop more uniform standards
25 for county enforcement activities. We expect to have a uniform
26 guidance completed, with the help of the counties, by spring, I
27 think, by April. And then, to use that uniform guideline as a
28

1 standard.

2 We'd almost have to look at what these violations
3 result from to know exactly how this -- what this means. But
4 we'll certainly look into it.

5 We do need -- we need uniform enforcement. It's
6 always been a problem when you have 58 counties, in getting
7 uniform --

8 SENATOR PETRIS: I understand, but it is supposed to
9 be enforcing a statewide law.

10 MR. WELLS: That's right.

11 SENATOR PETRIS: And we don't like the idea, after
12 working very hard to establish this state standards, to have it
13 fractured into 58 counties, and each of them go their own way.
14 They ought to be interpreting the same law. And I would imagine
15 pretty much -- we know it varies no matter what.

16 It's like going to court. You get one judge in one
17 county, and he'll impose a fine of so much for speeding. And
18 you go to another judge in the same courthouse, and you get a
19 different result. I understand that. So, there's bound to be
20 some variation.

21 But this seems to me to be far greater than it should
22 be. You know, you can allow a certain amount.

23 So, if you could check it out and see what the bases
24 are, we might be able to improve our enforcement.

25 One of my questions was, how can we improve that
26 enforcement? You're going to check it out and --

27 MR. WELLS: Yeah. I think we've got to start -- it's
28

1 really up to us to prescribe the standards and to provide the
2 training, and then the oversight of the counties to make sure
3 that that happens. And we've recognized this as a continuing
4 problem, and we're focusing on it. So hopefully, by the end of
5 this year, you'll see some different results.

6 SENATOR PETRIS: You're familiar with the journal
7 called The Packer?

8 MR. WELLS: Yes.

9 SENATOR PETRIS: And the article, there was an
10 article by one of the staff, Western Editor.

11 Is that pretty accurate? Is there any problem with
12 his discussion of the --

13 MR. WELLS: I haven't looked at this in a while.

14 SENATOR PETRIS: Well, he contends there've been a
15 lot of violations.

16 MR. WELLS: Oh, oh, oh, yes.

17 SENATOR PETRIS: And very few, if any, suspensions or
18 revocations, including pilots.

19 MR. WELLS: Yeah, and he's right.

20 You know, that's kind of the -- that's kind of the
21 damned if you do, damned if you don't, aspect of this whole
22 thing, is that if you haven't been taking any license actions
23 for nine years, and you suddenly start taking actions, you're
24 going to draw some -- some curiosity.

25 We weighed that --

26 SENATOR PETRIS: Draw some what?

27 MR. WELLS: -- and said this is what we need to do,
28

1 is to go out and start taking -- we have a number of these civil
2 penalties, as you see on this sheet. I think there were 709
3 civil penalties in agriculture last year, and there were
4 \$283,000 worth of fines.

5 And when we go back and look at those civil penalties
6 issued by the counties, and we see the same people coming up
7 over and over again, then we -- we know that they consider it
8 the cost of doing business.

9 So, we've launched an enforcement initiative to go
10 after those licensees and take their license away from them.

11 SENATOR PETRIS: Are you doing that now?

12 MR. WELLS: Yeah, that's what this refers to. This
13 referred to the first case that we took, and, you know, they're
14 looking backwards and saying, "Why haven't you done more?"
15 We're looking forward and saying, "You're going to see more."

16 We've got another one -- two more since this happened
17 have been issued, or the accusation against the license have
18 been issued.

19 SENATOR PETRIS: I'd like to keep posted on that from
20 time to time, directly or through Felice, and see. It seems to
21 me if you continue on that track, you're going to see those
22 things drop --

23 MR. WELLS: We should.

24 SENATOR PETRIS: -- the number of incidents drop.
25 And that's what we want to do.

26 Okay, I have one final area. Sorry, Mr. Chairman.
27 Unfortunately, it's another bill of mine, SB 926 last year,
28

1 relating to child care centers and schools.

2 Now, during that processing of that legislation, some
3 people told us, "Well, we don't know what these ingredients are
4 that you're trying to ban."

5 The original bill would have banned the use of
6 certain pesticides in the school house and the grounds, you
7 know, the landscaping, and especially the child day care
8 centers.

9 But then, somewhere along the line, somebody
10 suggested, "Well, we can identify them," and they prevailed on
11 us to back off of the harsh provisions that said you just ban
12 them, period. You can't sell them to the schools to study in a
13 report in which the EPA would be required to give us a list of
14 the ingredients being used on those commonly known products so
15 that we would know what they are, and provide them to the school
16 districts through the Superintendent of Public Instruction as an
17 informational item so they can make their own judgments on
18 whether they want to use these or not.

19 But I haven't seen the list. I don't think they're
20 doing it yet. Well, actually, the bill was defeated, so that's
21 why they're not doing it. Pretty good reason.

22 [Laughter.]

23 SENATOR PETRIS: But nevertheless, I understand
24 you're working on developing a list; is that correct? Or you
25 have a list relating to the stuff used in the schools and the
26 day care centers?

27 MR. WELLS: Yeah, we -- actually, the Child Advocacy
28

1 Group -- I can't remember the name of it -- Institute, she
2 apparently has a list that takes care of two or three of the
3 major school districts in the state, and she was going to send
4 that over to us: here's the chemical that they use. And, you
5 know, then we'll have a better handle on what they're actually
6 using in schools.

7 To tell you the truth, the incident that occurred
8 almost right after your bill was defeated pointed out to us that
9 there's a bigger problem, really, than we thought in schools,
10 because --

11 SENATOR PETRIS: Well, the timing was terrible. The
12 Governor vetoed the bill, and the next day they closed down a
13 school in San Francisco, sent 300 kids home, because of some
14 cleaning agent they used in the school.

15 MR. WELLS: Well the problem there was that they
16 didn't even know they were doing pest control. And that -- that
17 was the thing that caught our attention, is that we need a
18 broader education program for the schools than even we were
19 considering with the list.

20 SENATOR PETRIS: Can we start with a list and go from
21 there up? I'd like to work with you. Perhaps this year we can
22 put something in with the support of the Department and educate
23 the schools.

24 That was ironic. If that had happened the day
25 before, I don't think the Governor would have vetoed the bill.

26 Oddly enough, that substance wasn't in the bill.

27 MR. WELLS: No.
28

1 SENATOR PETRIS: It was in a bill previously. It's
2 ammonium something or other, microbials.

3 MR. WELLS: And the school didn't even realize that
4 what that person was doing up there was applying a pesticide.
5 And I'm not sure that person did, either, but that's another
6 story.

7 SENATOR PETRIS: Well, the name of the company had
8 some fancy environmental thing.

9 MR. WELLS: Health Air.

10 SENATOR PETRIS: Health Air.

11 MR. WELLS: A little irony there.

12 SENATOR PETRIS: Yes, well, maybe we ought to label
13 -- we regulate what goes on labels; maybe we ought to regulate
14 what goes on titles of people working in a dangerous area.

15 MR. WELLS: The operator was unlicensed in that case.

16 SENATOR PETRIS: That made it worse.

17 Well, I'd like to work with you on that in the
18 future, this year I mean, not far off in the future.

19 Mr. Chairman, thank you very much.

20 Thank you, Mr. Wells.

21 CHAIRMAN ROBERTI: Any other? Senator Ayala.

22 SENATOR AYALA: I have a very short question. I
23 think Senator Petris covered the area pretty well.

24 Is your Department responsible for the aerial
25 spraying of malathion for the medfly eradication?

26 MR. WELLS: No, Senator, we're not responsible. Our
27 part of that is merely to police the aerial spraying. We're
28

1 responsible for the registration of materials, and we're
2 responsible to make sure that it's done according to law, and we
3 do monitoring.

4 SENATOR AYALA: But you're not involved in
5 authorizing malathion or any other substance to be used for the
6 spraying? You're not responsible for that?

7 MR. WELLS: Yeah, we authorize -- it's up to us to
8 issue the -- they're using a special local need.

9 SENATOR AYALA: Some 12-13 years ago, there was an
10 infestation in the San Jose area. At that time I was told we
11 had two methods of -- we're not eradicating. We're just
12 controlling it, I think, the medfly infestation.

13 What we had was malathion and the release of sterile
14 medflys.

15 MR. WELLS: Right.

16 SENATOR AYALA: Now, that was 12 years ago.

17 What do you have to combat that problem today?

18 MR. WELLS: Malathion and sterile medflys.

19 Unfortunately, the science on that hasn't moved very
20 fast. There aren't any biocontrol agents that they know of
21 right now that --

22 SENATOR AYALA: In 12-13 years, we haven't made any
23 progress?

24 We're not really doing it, you know, and we're just,
25 in my opinion, we're just controlling the spread of infestation.
26 I don't think we've eradicated the medfly, and we probably never
27 will, in my opinion, from what I've heard.
28

1 Now, can you tell me that malathion is no health risk
2 now or in the future, spraying it on the residential areas?

3 MR. WELLS: Can I go back to the first question
4 first, and then I want to clarify something there, and then
5 we'll go on to the second one.

6 There has really been progress, and it's been recent
7 progress. It wasn't 12 years ago, but recently, in the
8 Department of Food and Agriculture's control of the medfly. And
9 that came largely through this new trap that they have that
10 gives them better trapping capability, and they know more about
11 the distribution of the pest. And I think that's one of the
12 reasons why they haven't had to go to aerial spraying; that, and
13 the fact that they've increased the capacity to produce sterile
14 flies.

15 So, they've had applications -- or, they've had an
16 infestation recently that, in the old days they would have
17 sprayed already, but they're not, because they're using the
18 ground materials, and they're using all the technology's that's
19 available to them. And they also have some expanded research
20 going on.

21 So, I think there are good signs, but unfortunately,
22 and it's an entomological argument, I guess, and not really one
23 that the Department of Pesticide Regulation gets into, but they
24 believe they are still in an eradication mode. And I know
25 there's a lot of arguments about that.

26 The countries that have gone to a control mode have
27 to use a lot of pesticides to control it, and that's what
28

1 they're trying to get away from doing.

2 As far as the health aspects, malathion is probably
3 the most widely studied -- is the most widely studied chemical,
4 especially since this last health assessment by the Malathion
5 Public Health Advisory Committee, and the advisory committee,
6 the Department of Health Services, and the Office of
7 Environmental Health Hazard Assessment all came out with there's
8 no significant risk to the general population.

9 That really -- you know, that's all the expertise in
10 the state right now saying that there isn't, and that you'd be
11 at more of a risk if you didn't control it.

12 SENATOR AYALA: I recall that during that discussion
13 with the Director of Food and Ag, we were told that malathion
14 had no problems, that New Orleans had been sprayed for the last
15 25 years at that time. There was no medical problems that you
16 could put at the foot of the spraying of malathion. They
17 sprayed it on the streets, on the channels, on the lakes, and
18 anywhere the water was every year for the last at that time 30
19 years.

20 Well, no it was no risk to human life, but apparently
21 there was no problem with the mosquito, either, because they
22 keep spraying it every year. They weren't getting anyplace with
23 it.

24 So my point is that in 12 years, we've made no
25 substantial progress, knowing that it's going to come back. Is
26 it because we don't have the funds to research the problem, or
27 what happens to be the reason for not getting a little more
28

1 scientifically involved with this problem? It's going to come
2 back.

3 MR. WELLS: I think there has in the past been a lack
4 of funds. I think, though, the fact that it's come back so many
5 times recently has focused more funding activity on it.

6 I think they're working on a \$750,000 program now.
7 It's not my program, so I might have the numbers wrong.

8 But that, and the fact that the technology's advanced
9 -- I don't know if you've noticed, but just recently they've
10 done -- they managed to do the DNA typing of the white fly to
11 determine that the white fly in the Imperial County is a
12 different species of white fly than the one they thought it was.

13 They can use that same technology on the medfly; in
14 fact, they are.

15 One of the difficult problems with controlling or
16 finding a biological control for a pest that is widespread, like
17 the medfly, is, you can't find out where it originated. You
18 need to find out specifically what strain it is, and where it
19 originated, and then go back to that location and try to find
20 out what controls --

21 SENATOR AYALA: We have people coming into this state
22 from other states and from foreign countries.

23 MR. WELLS: But, see, it's all over the world now.

24 What they need to do, and the same with the sweet
25 potato -- or, so-called sweet potato white fly is to go back to
26 the location where that particular pest is being controlled
27 naturally, and that's where we had the big success with the ash
28

1 white fly, because we were lucky enough to be able to go back to
2 those areas in Europe where it originated where it was under
3 biological control, and brought the biological controls back
4 with us.

5 SENATOR AYALA: Is your Department not involved with
6 that activity at all?

7 MR. WELLS: No, we're not at this point. Since the
8 separation, basically, we're not involved in the research.
9 We're only involved in whether or not we issue the malathion
10 registrations. And at this point, all the health information
11 indicates that there's no reason not to.

12 SENATOR AYALA: Can I have a copy of that
13 information, medical and scientific information telling us that
14 there's no health risk involved with the spraying of malathion
15 over residential areas.

16 MR. WELLS: To the general population, I believe.
17 This is a report that came out of the Office of Environmental
18 Health Hazard Assessment just recently.

19 SENATOR AYALA: Can you give me something on that?
20 I'd like to --

21 MR. WELLS: We can get that to you, yeah.

22 SENATOR AYALA: Thank you.

23 CHAIRMAN ROBERTI: Any further questions?

24 Is there anyone here in support or opposition? Okay,
25 please come forward. State your name and your point of view.

26 DR. WINTER: Thank you, Mr. Chairman, Senators.

27 I'm Dr. Carl Winter, and I am food toxicologist and
28

1 Director of the FoodSafe Program at the University of California
2 at Davis.

3 I'm pleased to be here today to express my support
4 for the confirmation of Jim Wells as Director of the Department
5 of Pesticide Regulation.

6 I've known Mr. Wells professionally since 1981, when
7 he served briefly as the Program Supervisor of the California
8 Department of Food and Agriculture's Worker Health and Safety
9 Branch. As an employee of the Branch at the time, I was
10 impressed with Mr. Wells's leadership skills, communication
11 abilities, and his thorough knowledge of pesticide use practices
12 and worker safety issues. I was not at all surprised to learn
13 of his subsequent promotion to Chief of the Pesticide Use
14 Enforcement Branch, or of his continued ascent through positions
15 of increased responsibility, culminating in today's hearing.

16 I left CDFA to pursue graduate studies and was hired
17 by the University of California as a toxicologist upon
18 completion of my graduate work in 1987. My program at the
19 University specializes in the issue of pesticide residues in
20 foods and has kept me in continuous contact with Mr. Wells and
21 his staff for the past five years. I've appeared with Mr. Wells
22 on a variety of symposia and panels concerning food safety and
23 pesticide registration activities, and I can personally attest
24 to his effectiveness in describing the role and activities of
25 the Department of Pesticide Regulation to a very wide variety of
26 audiences.

27 Mr. Wells has demonstrated the ability to understand
28

1 and to value the variety of opinions that surface with respect
2 to pesticide issues, and to communicate appropriate responses in
3 an honest, open, and constructive manner.

4 Perhaps the greatest endorsement I can offer
5 concerning Mr. Wells's leadership and effectiveness in directing
6 the activities of the Department of Pesticide Regulation comes
7 from the reputation of the program outside of California. The
8 pesticide regulatory program in California is truly the envy of
9 the other 49 states, and Jim Wells deserves much of the credit
10 for its success.

11 While the Federal Environmental Protection Agency and
12 the Food and Drug Administration are occasionally threatened by
13 the existence of the California program, Mr. Wells has worked
14 hard to develop programs that complement, rather than compete
15 with, existing federal programs. As an example, California's
16 residue testing program contains unique elements, such as
17 priority pesticide, produce destined for processing, and
18 pre-harvest monitoring surveys that provide valuable data for
19 subsequent assessments of dietary risks that cannot be obtained
20 from existing federal programs.

21 California remains as the nation's trend-setter and
22 leader in pesticide regulation, and Jim Wells has demonstrated
23 the ability to effectively lead the program through his
24 experience and his innovative abilities.

25 I support his confirmation as Director of the
26 Department of Pesticide Regulation without reservation.

27 SENATOR PETRIS: Question.
28

1 CHAIRMAN ROBERTI: Yes, Senator Petris.

2 SENATOR PETRIS: Can I have your name again?

3 DR. WINTER: Yes, I'm Carl Winter.

4 SENATOR PETRIS: You're a professor at U.C. Davis?

5 DR. WINTER: Yes, at U.C. Davis.

6 SENATOR PETRIS: I'm not going to ask you your age,
7 but I don't think you'd be permitted to do the mixing of the
8 ingredients.

9 [Laughter.]

10 DR. WINTER: I take that as a compliment. Thank you,
11 Senator.

12 SENATOR PETRIS: Thank you.

13 CHAIRMAN ROBERTI: Anyone else in support or
14 opposition?

15 Do I hear a motion?

16 SENATOR CRAVEN: Move it.

17 CHAIRMAN ROBERTI: Senator Craven moves confirmation
18 be recommended to the Floor.

19 Secretary will call the roll.

20 SECRETARY WEBB: Senator Ayala.

21 SENATOR AYALA: Aye.

22 SECRETARY WEBB: Ayala Aye. Senator Beverly.

23 SENATOR BEVERLY: Aye.

24 SECRETARY WEBB: Beverly Aye. Senator Petris.

25 SENATOR PETRIS: Aye.

26 SECRETARY WEBB: Petris Aye. Senator Craven.

27 SENATOR CRAVEN: Aye.
28

1 SECRETARY WEBB: Craven Aye. Senator Roberti.

2 CHAIRMAN ROBERTI: Aye.

3 SECRETARY WEBB: Roberti Aye.

4 CHAIRMAN ROBERTI: The vote is five to zero;
5 confirmation is recommended to the Floor.

6 MR. WELLS: Thank you.

7 [Thereupon this portion of the
8 Senate Rules Committee hearing
9 was terminated at approximately
10 4:50 P.M.]

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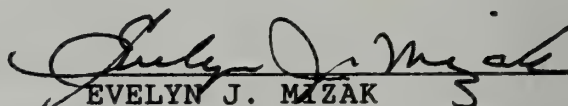
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of January, 1993.


EVELYN J. MIZAK
Shorthand Reporter

**BEFORE THE SENATE RULES COMMITTEE
CONFIRMATION HEARING
JIM WELLS, DEPARTMENT OF PESTICIDE
REGULATION**

**Testimony of
Doug Hemly
Greene & Hemly
January 13, 1993**

1912

THE UNIVERSITY OF CHICAGO

DEPARTMENT OF CHEMISTRY

REPORT

BY

JOHN D. COOPER

AND

WILLIAM F. HILL

BEFORE THE SENATE RULES COMMITTEE
CONFIRMATION HEARING

Good afternoon. My name is Doug Hemly. I am a fifth generation farmer, growing and shipping pears and apples from our farming operation on the Sacramento Delta. For the past 9 years, I have been a member of the Board of Directors of California Pear Growers and am immediate past Chairman of the Board of the California Grape and Tree Fruit League. I am currently Vice-Chair of both the Pear Advisory Board and of the Pear Pest Management Research Fund. I thank you for the opportunity this afternoon to speak in support of the confirmation of Jim Wells as Director of the Department of Pesticide Regulation.

Before I begin my presentation, I think it may be helpful to give you a bit of my background in order to put in perspective my support of Mr. Wells. Back in the late Sixties and early Seventies, a small group of Delta pear growers, including my father and farm advisor Dick Bethel, spearheaded creation of an integrated pest management program for the California pear industry -- the first formalized, published manual of its kind.

My family has practiced IPM since that time, using the services of independent pest control advisors. For the past three years, we have farmed orchards certified as organic by California Certified Organic Farmers. I understand from the ground up, so to speak, the trials and benefits of IPM, and am all too familiar with the impediments to its more widespread adoption.

Against this backdrop, I wish to express my support, and the support of the organizations with which I am involved, for Mr. Wells confirmation.

While disagreements over management of agricultural chemicals have historically been among the most divisive in our state, Jim Wells has worked to bridge communication gaps between growers and environmental interests. Through creation of the Pesticide Registration Advisory Committee, Mr. Wells launched a comprehensive, unprecedented review of state impediments to adoption of safer pest management techniques.

A nationally recognized pest management policy expert, Mr. Wells last year was called on to testify before a Congressional Committee investigating difficulties faced by minor crop agriculture. In addition, he was an active participant in last summer's EPA/USDA forum on Integrated Pest Management.

I find I can't really address this appointment without expressing a certain level of disappointment about the role government typically has played in pesticide regulation. Typically government has just said, "No you can't do that." Jim Wells, by contrast, has said "How about if we try this?" When the pear industry sought to expedite the registration of a biological control of our major pest, codling moth, Wells stepped in last season to make sure this environmentally friendly program was available to growers. Wells also facilitated the availability of a new material which has greatly reduced the volume of miticides pear growers had to use, in an action that was both environmentally and economically sound.

In Jim Wells, DPR has an individual that understands how to balance competing interests. He understands that polarization only results in regulatory gridlock. He understands that we need to work together to move California agriculture further along the path to information based pest management systems.

The Senate Rules Committee has before it the right person to lead the Department of Pesticide Regulation. I urge your vote in support of his confirmation and welcome any questions you may have.

The first part of the paper discusses the importance of the study and the objectives of the research. It also provides a brief overview of the methodology used in the study.

The second part of the paper presents the results of the study. It includes a detailed description of the data collected and the analysis performed. The results are presented in a clear and concise manner, highlighting the key findings of the study.

The third part of the paper discusses the implications of the study. It explores the potential applications of the findings and the limitations of the study. The paper concludes with a summary of the main points and a final statement on the importance of the research.

The paper is written in a clear and concise manner, using a professional tone. It includes a detailed description of the data collected and the analysis performed. The results are presented in a clear and concise manner, highlighting the key findings of the study.

The paper is well-structured and easy to read. It includes a detailed description of the data collected and the analysis performed. The results are presented in a clear and concise manner, highlighting the key findings of the study.

The paper is a valuable contribution to the field of research. It provides a detailed and comprehensive overview of the study and its findings. The paper is well-written and easy to read, making it a valuable resource for researchers and students alike.

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WEDNESDAY, JANUARY 20, 1993

2:20 P.M.

1 SENATE RULES COMMITTEE

2 STATE OF CALIFORNIA

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7 HEARING

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11 STATE CAPITOL

12 ROOM 113

13 SACRAMENTO, CALIFORNIA

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17 WEDNESDAY, JANUARY 20, 1993

18 2:20 P.M.

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24 Reported by:

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27 Evelyn J. Mizak
 Shorthand Reporter



APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair

SENATOR RUBEN AYALA

SENATOR ROBERT BEVERLY

SENATOR NICHOLAS PETRIS

MEMBERS ABSENT

SENATOR WILLIAM CRAVEN, Vice Chair

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

JOSEPH A. DUFFEL, Member
California Transportation Commission

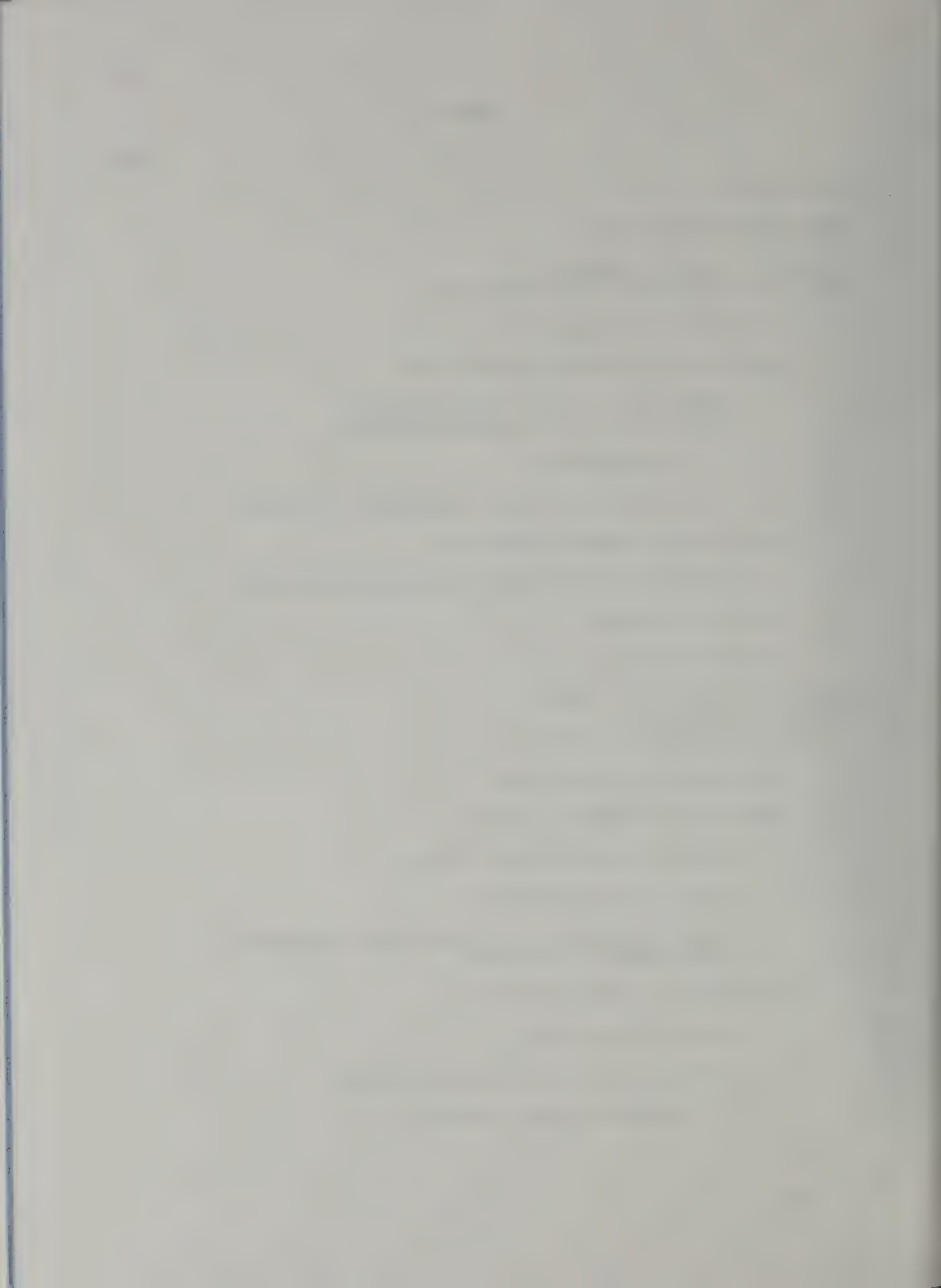
PHILIP E. DEL CAMPO, Member
Board of Governors
California Community Colleges

ALICE S. PETROSSIAN, Member
Board of Governors
California Community Colleges



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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: We have three Governor's appointees this afternoon. We'll start with Joseph A. Duffel, Member of the California Transportation Commission.

Mr. Duffel, we'll ask you what we ask all the Governor's appointees, and that is what you feel your qualifications are for this position, which I think you've had for a while?

MR. DUFFEL: I'm a businessman. I've served two terms already.

I think that I'm beginning to learn enough about transportation to make a real contribution to the Commission.

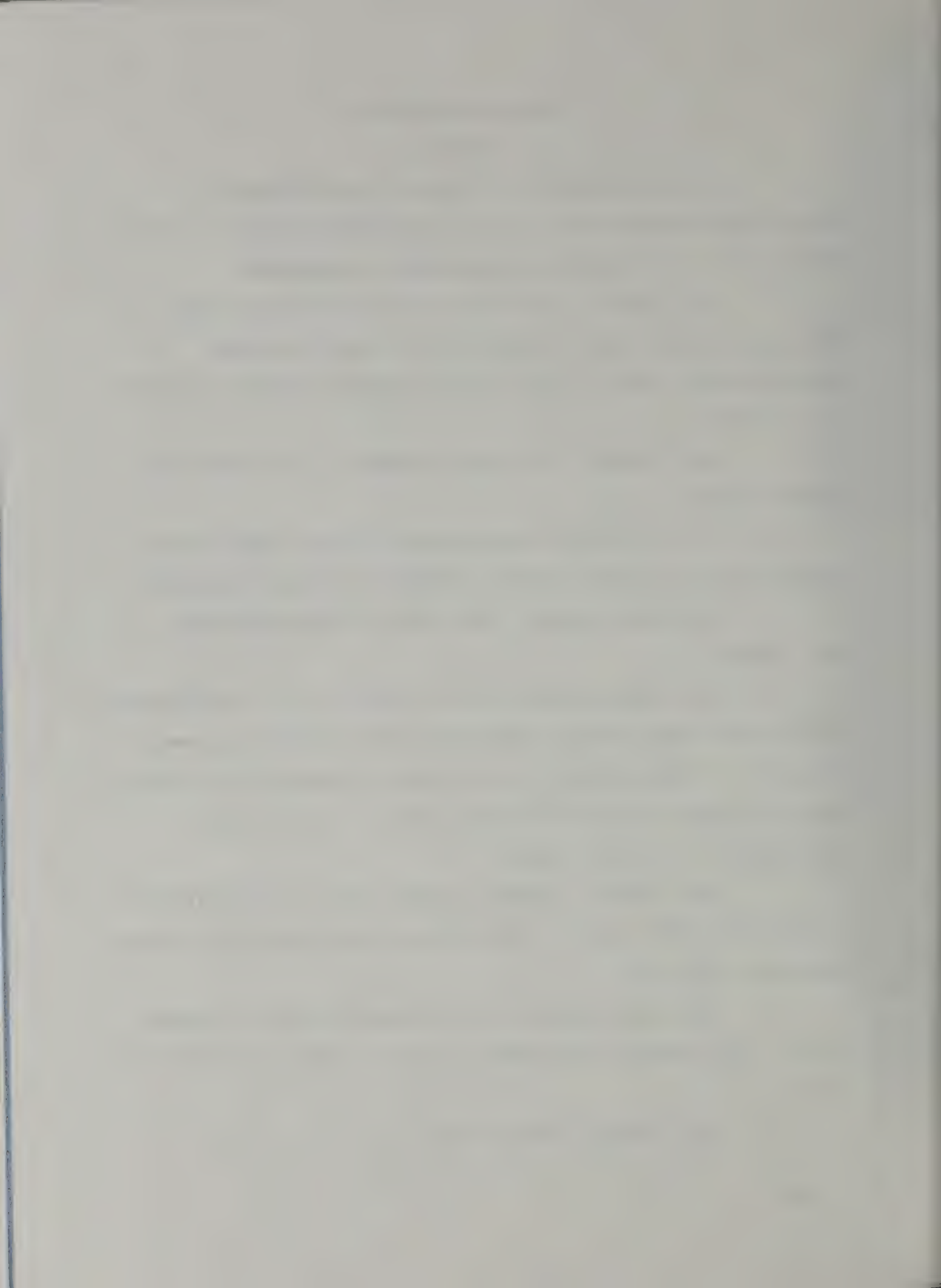
CHAIRMAN ROBERTI: Are there any questions of Mr. Duffel?

Getting parochial in my district in the San Fernando Valley is a battle between those who want a metro-rail and a monorail. LACTC, really, is the relevant agency, but to what extent has the CTC been involved, and has it made any recommendations in this area?

MR. DUFFEL: We have not made any recommendations as it relates to the type of rail service that would be in the San Fernando Valley, no.

CHAIRMAN ROBERTI: What parameters do you operate under? Los Angeles would have to come up with a satisfactory plan --

MR. DUFFEL: That's right.



1 CHAIRMAN ROBERTI: -- at which time you would --

2 MR. DUFFEL: They would come to us --

3 CHAIRMAN ROBERTI: -- dispose of the funds that are
4 allocated for this area?

5 MR. DUFFEL: They would come to us for the funding,
6 and we would authorize the funding if those funds were
7 available. And if -- period.

8 CHAIRMAN ROBERTI: Does each project have a maximum
9 amount of funds that you would dedicate?

10 MR. DUFFEL: There are all kinds of different sources
11 of funds for something like rail. I would imagine that most of
12 the of the funding for that type rail would be federal funding,
13 and it would be -- it would come through UMPTA.

14 CHAIRMAN ROBERTI: Any other questions of Mr. Duffel?
15 Do I hear a motion?

16 SENATOR AYALA: Mr. Chairman.

17 CHAIRMAN ROBERTI: Senator Ayala.

18 SENATOR AYALA: Just one question.

19 The issue that came out in April of 1990 entitled
20 "California's Transportation Future" refers to a balanced
21 transportation system.

22 What does that mean?

23 MR. DUFFEL: Well, I think that that was the
24 intention of the blueprint legislation that was the forerunner
25 of the initiatives -- 108, 111 -- authorizing legislation which
26 was Senate Bill 300. And it has to do with more than one form
27 of transportation. The multi-modal approach to movement of
28

1 people and goods rather than just freeways.

2 SENATOR AYALA: Rail and automobile?

3 MR. DUFFEL: Rail, and access to ports. All the
4 various impacts on transportation that must be considered: air
5 quality, funding sources, et cetera.

6 SENATOR AYALA: Thank you.

7 SENATOR BEVERLY: Move we recommend the confirmation.

8 CHAIRMAN ROBERTI: Senator Beverly moves confirmation
9 be recommended to the Floor.

10 Is there any opposition in the audience?

11 Secretary will call the roll.

12 SECRETARY WEBB: Senator Ayala.

13 SENATOR AYALA: Aye.

14 SECRETARY WEBB: Ayala Aye. Senator Beverly.

15 SENATOR BEVERLY: Aye.

16 SECRETARY WEBB: Beverly Aye. Senator Petris.

17 SENATOR PETRIS: Aye.

18 SECRETARY WEBB: Petris Aye. Senator Craven.

19 Senator Roberti.

20 CHAIRMAN ROBERTI: Aye.

21 SECRETARY WEBB: Roberti Aye.

22 CHAIRMAN ROBERTI: The vote is four to zero;
23 confirmation is recommended to the Floor.

24 Congratulations.

25 MR. DUFFEL: Thank you, sir.

26 CHAIRMAN ROBERTI: The next appointment is Philip E.
27 Del Campo, a Member of the Board of Governors, California
28

1 Community Colleges.

2 Mr. Del Campo, we will ask you also what we ask all
3 the Governor's appointees, and that is what your qualifications
4 are to assume this position?

5 MR. DEL CAMPO: Yes, sir.

6 I would state that I have over 35 years of experience
7 in all forms of education, not necessarily in ranking order, but
8 starting as an elementary education teacher, and working at all
9 the levels in between, and 20 years of administrative
10 experience.

11 CHAIRMAN ROBERTI: Very good.

12 Are there any questions?

13 Do you feel that the Master Plan as it pertains to
14 community colleges has to be revisited?

15 MR. DEL CAMPO: Yes, sir.

16 CHAIRMAN ROBERTI: How would you revisit it?

17 MR. DUFFEL: Well, we would look at -- one of the
18 areas would be funding.

19 CHAIRMAN ROBERTI: In five seconds or less.

20 [Laughter.]

21 CHAIRMAN ROBERTI: No, no. I'm teasing you.

22 I'm serious; how would you revisit it?

23 MR. DEL CAMPO: Well, I would, with all due modesty,
24 Senator, because you have visited the centers that I was
25 President in San Diego, I would run it on that basis.

26 No, I'm teasing.

27 We would look at finance. We would look the funding
28

1 packages, vocational education, and also bringing in how to get
2 the best for the students, the best bang for the buck, and also
3 working with the Governor and the legislation in bringing about
4 proactive programs.

5 CHAIRMAN ROBERTI: If there was any one area that
6 currently comes under the purview of community colleges where
7 you would think maybe it could be de-emphasized --

8 MR. DEL CAMPO: De-emphasized?

9 CHAIRMAN ROBERTI: De-emphasized -- tough question.

10 MR. DEL CAMPO: Yes, sir.

11 CHAIRMAN ROBERTI: What would you do?

12 This isn't an invitation for you to sacrifice
13 somebody, but everything always needs to be streamlined a little
14 bit.

15 MR. DEL CAMPO: Well, we are taking a close look at
16 the academics, and we're emphasizing, of course, the vocational.

17 I'm not quite sure I would know just where to make
18 those particular cuts. I would have to look at it very closely.

19 CHAIRMAN ROBERTI: Is the Board looking on what we
20 can do to have a far more affirmative program in bringing new
21 immigrants into community college through the teaching of skills

22 I mean, I look to the community college as a major
23 teacher, accommodator, for a whole host of people, a skills
24 giver.

25 MR. DEL CAMPO: Yes, sir.

26 CHAIRMAN ROBERTI: And I'm an advocate, but I want to
27 know --
28

1 MR. DEL CAMPO: I know you are.

2 CHAIRMAN ROBERTI: -- what you have on the line right
3 now to take care of what is an enormous problem, could be an
4 enormous opportunity, with new people if we can educate them?

5 MR. DEL CAMPO: We're taking a very, very hard look
6 at the affirmative action, where the hires are. We're also
7 taking a look at where the immigrants are, and how to deal with
8 these particular problems.

9 The funding, as you well know, is a huge problem,
10 because we have huge numbers, and we don't know exactly where
11 those numbers are.

12 But I would base the training on English as a Second
13 Language, because one of the primary responses that we have
14 gotten from the immigrants is the idea -- and this is borne out
15 by the Garza Study in Texas -- is the learning of the language.
16 And then from there, building a career ladder where they can go
17 from the learning of the language, through the ladders, to
18 either vocational or a university. In other words, the old
19 American message.

20 CHAIRMAN ROBERTI: Any other questions of Mr. Del
21 Campo? Senator Petris, then Senator Ayala.

22 SENATOR PETRIS: I see you have a long history in the
23 education community, especially in San Diego.

24 MR. DEL CAMPO: Yes, sir.

25 SENATOR PETRIS: Community College President and so
26 forth.

27 MR. DEL CAMPO: Yes, sir.
28

1 SENATOR PETRIS: And now you're a consultant. What
2 does that mean? You work for them on specific projects or what?

3 MR. DEL CAMPO: Yes, sir. I serve, among other
4 groups, I work for POST as a tutor in their Command College.
5 This is one of the things. Also as an assessor in bringing in
6 the applicants. And I'm also doing consulting work at San Diego
7 Community College, City College, and particularly bringing in
8 the -- the minorities, if you will, into the college: how do
9 you get more affirmative action going into the college and
10 students.

11 SENATOR PETRIS: How do you do that?

12 MR. DEL CAMPO: Well, one thing you learn is the
13 neighborhood and how to meet with the various groups and try to
14 bring in -- offer different situations; try to make the programs
15 tailor-made for the people that you're working with. If you
16 want them, you can go out and get them. And that's what we're
17 doing.

18 SENATOR PETRIS: Do you work with the local high
19 schools on that?

20 MR. DEL CAMPO: Yes, sir. I worked with the high
21 schools. I spent many years with the Unified School District.

22 SENATOR PETRIS: Last year we had a terrible tussle
23 on the money. The Governor at one point wanted us to raise the
24 community college fees to \$20 a unit from -- it was \$6, I guess,
25 last year.

26 MR. DEL CAMPO: Yes, sir.

27 SENATOR PETRIS: And we raised it to \$10. Now he
28

1 wants to authorize the college to go up to \$30 a unit.

2 MR. DEL CAMPO: Yes, sir.

3 SENATOR PETRIS: Do you support that?

4 MR. DEL CAMPO: I'm hedging because at this
5 particular point, we are doing a very involved study with this
6 through the community colleges.

7 I know it will cause great problems, and I -- do I
8 support it? I'm afraid I have to, yes.

9 SENATOR PETRIS: You don't see any other route for
10 raising the money?

11 MR. DEL CAMPO: Not at -- not at the present time.

12 I think we're going to have to work, and hopefully,
13 we will come up with something that -- that will tie in, of
14 course, with the governmental picture of trying to get a better
15 improvement in our teaching situations.

16 SENATOR PETRIS: Now, the groups you're working with
17 on affirmative action, bringing in more minorities --

18 MR. DEL CAMPO: Yes, sir.

19 SENATOR PETRIS: -- are generally lower income;
20 aren't they?

21 MR. DEL CAMPO: Yes, sir.

22 SENATOR PETRIS: What kind of an impact would this
23 have if we went right to \$30 a unit as far as their
24 accessibility goes?

25 MR. DEL CAMPO: One of the things that I'm working
26 with is working with the business community and trying to get
27 jobs for these youngsters -- youngsters. The average age of a
28

1 community college student is somewhere in the high 20s, 28 or
2 29. The people that we're getting, we're trying to get jobs for
3 them so that they can support and pay their particular fees.

4 Now, obviously, we'd not like to go up to \$30 if
5 possible, but the key is, how can they make money in order to
6 help themselves.

7 SENATOR PETRIS: Well, I think the Governor described
8 30 as the top.

9 MR. DEL CAMPO: Yes, sir, up to.

10 SENATOR PETRIS: I don't think he anticipates going
11 directly to 30.

12 MR. DEL CAMPO: No.

13 SENATOR PETRIS: Among the Board Members, is there
14 any discussion of revenue sources they might recommend to the
15 Governor?

16 MR. DEL CAMPO: Not that I'm aware of at this
17 particular point. We're still looking at this, sir. We're --
18 in light of the budget, we're still looking at this.

19 SENATOR PETRIS: Well, I think the Governor needs all
20 the help he can get. Last year, or rather the first year, he
21 went through a very painful experience in his first year, trying
22 to make up a terrible, terrible, worst deficit in history,
23 partly by cutting things, and partly by raising taxes.

24 Now, last year he didn't want to talk about taxes,
25 because he got into a lot of hot water. I can understand that.
26 But now we have to look to that again as a possible source.

27 Is that among the options --
28

1 MR. DEL CAMPO: Yes, sir.

2 SENATOR PETRIS: -- your Board's looking at?

3 MR. DEL CAMPO: Yes, sir.

4 One of the things we did, we voted at the last
5 meeting to support the extension of a half cent emergency sales
6 tax for a time certain, and earmark these funds for education.
7 That is one of the things that the Board has supported.

8 SENATOR PETRIS: And that's been transmitted to the
9 Governor?

10 MR. DEL CAMPO: Well, I assume so, sir.

11 SENATOR PETRIS: I hope you did, because he's come
12 out against that early on. He's still very gun-shy about taxes.

13 MR. DEL CAMPO: Yes, sir.

14 SENATOR PETRIS: I understand it. I mean, his own
15 party said, "We're not going to support you any more because you
16 voted for it."

17 That's why I think it's important for the component
18 units of our public agencies to make some strong statements.

19 I'm not saying he's going to do it, but if he's close
20 to the line, and he's exhausted all other possibilities, and he
21 may want to reconsider the sales tax thing, if he gets a large
22 number of groups out there urging him to do it, it'll make it a
23 lot easier for him.

24 So what I'm saying to you is, as long as your Board
25 has already made that recommendation, I think it ought to be
26 made public to generate the proper climate to make it easier for
27 the Governor to go that way if he decides that's a last resort.
28

1 Do you see what I mean?

2 MR. DEL CAMPO: Yes, sir.

3 SENATOR PETRIS: I'd strongly urge you to pass that
4 on to the whole Board and make it well known publicly.

5 MR. DEL CAMPO: I'll do it, sir.

6 SENATOR PETRIS: Thank you.

7 CHAIRMAN ROBERTI: Senator Ayala.

8 SENATOR AYALA: Mr. Del Campo, the community college
9 system can no longer accept all the students that they would
10 like to.

11 What criteria is being used to determine what
12 students are accepted and which are not accepted?

13 MR. DEL CAMPO: At this point, there is no uniform
14 way of doing that. We're trying to identify our student
15 populations. In many of the districts the open-door policy
16 still exists simply because of the differences of need. And so
17 consequently, I can't give you a cut-and-dried answer, sir, on
18 we're doing A, B, C, D, a cookbook answer.

19 SENATOR AYALA: Is it first come, first served?

20 MR. DEL CAMPO: I'm sorry?

21 SENATOR AYALA: How are you doing it now? You don't
22 have a policy. Shouldn't we have one during the times when we
23 can't accept all students, and use a fair method of determining
24 how a student would be accepted or not?

25 MR. DEL CAMPO: Yes, sir. We're taking a hard look
26 at that as to what is going to constitute that. We may have to
27 come to that particular point.

28

1 Now it's based on need. We're trying to get the
2 minority recruitment in and get a balance in that, that sort of
3 thing.

4 SENATOR AYALA: I consider the community college a
5 pivotal part of our system, where a lot of students that get out
6 of high school may not be mature enough to go to a four-year
7 college, or economics comes into the picture, they can't.

8 So, I think you should have some kind of a policy, to
9 be flexible, of course, but to make sure that all those who
10 would like to get involved are given that opportunity.

11 MR. DEL CAMPO: I would concur with the Senator on
12 his remarks, because I happen to think the community colleges
13 are excellent in our state, and I think that we do a good job in
14 working with all youngsters, all students.

15 SENATOR AYALA: Do you think a policy should be
16 established for that?

17 MR. DEL CAMPO: I think we're going to have to take a
18 very hard look at that, sir.

19 SENATOR AYALA: Thank you.

20 CHAIRMAN ROBERTI: Any further questions? Is there
21 any opposition in the audience?

22 Do I hear a motion?

23 SENATOR BEVERLY: Move we recommend confirmation.

24 CHAIRMAN ROBERTI: Senator Beverly moves confirmation
25 be recommended to the Floor.

26 Secretary will call the roll.

27 SECRETARY WEBB: Senator Ayala.

28

1 SENATOR AYALA: Aye.

2 SECRETARY WEBB: Ayala Aye. Senator Beverly.

3 SENATOR BEVERLY: Aye.

4 SECRETARY WEBB: Beverly Aye. Senator Petris.

5 SENATOR PETRIS: Aye.

6 SECRETARY WEBB: Petris Aye. Senator Craven.

7 Senator Roberti.

8 CHAIRMAN ROBERTI: Aye.

9 SECRETARY WEBB: Roberti Aye.

10 CHAIRMAN ROBERTI: The vote is four to zero;
11 confirmation is recommended to the Floor.

12 Congratulations.

13 MR. DEL CAMPO: Thank you, sir. Thank you very much.

14 CHAIRMAN ROBERTI: Last but not least, Alice
15 Petrossian, Member of the Board of Governors of the California
16 Community College System.

17 We'll ask you what we ask all the Governor's
18 appointees, and that is what your qualifications are for this
19 position, which we know you have held for some time now.

20 MS. PETROSSIAN: I've been active in educational
21 policy and politics for the last 12 years, serving now my third
22 Governor. And I've had the opportunity to work in all segments
23 of education.

24 As an immigrant into the State of California, I
25 consider myself a minority woman who's had the privilege and the
26 pleasure of attending Los Angeles City College as the first step
27 to my higher education career. So, from then on, I knew that I
28

1 had a commitment to the system which allowed me the opportunity
2 to continue and then come back and serve.

3 I served as a teacher for many years in the Hayward
4 area. Purchased Senator Petris's house on 15 Crestmont.

5 SENATOR PETRIS: ° You did?

6 MS. PETROSSIAN: Yes, and lived there happily for ten
7 years, and then was recruited --

8 CHAIRMAN ROBERTI: There's no conflict. Ten years is
9 long enough time.

10 MS. PETROSSIAN: Ten years is long enough, right.

11 And then served as an administrator, which I
12 presently am with the Glendale Unified School District, and have
13 also served as a Professor at the Cal State system and the
14 community college system.

15 CHAIRMAN ROBERTI: Very good.

16 Mr. Karapetian has a little letter to let you know he
17 did his duty.

18 MS. PETROSSIAN: Good for Berdj.

19 CHAIRMAN ROBERTI: Yes.

20 Are there any other questions?

21 I'll ask you the same question that I asked Mr. Del
22 Campo. Do you feel that the Master Plan should be revisited as
23 pertains to community colleges?

24 MS. PETROSSIAN: Yes, I believe, given the fiscal
25 constraints that the state is under, we really do need to take a
26 look at the Master Plan. And I believe all segments must be
27 involved.
28

1 Having looked at the budget from the Governor very
2 carefully, I have a son, a freshman at U.C. -- no, sophomore at
3 U.C., lost a year here. And he is costing the taxpayers \$18,000
4 besides what he's costing his parents. I now have another son
5 who intends to go into the same system within a year. At the
6 same time, a freshman/sophomore at the California State
7 University System costs us \$8,000 on the taxpayer. And that
8 same student at the community colleges costs the taxpayer 4,000,
9 if the budget figures were to be accurate.

10 Given that, I think we need to revisit to see if we
11 don't want to do more redirect for freshman/sophomore years,
12 because those years the education is equal, and all the transfer
13 information we have says that it is more cost beneficial to the
14 state to take a look at having more freshman and sophomores
15 educated at the community college for the State of California
16 than to have it at any other level.

17 I think the concentration, instead of turning away
18 young people from our State College and University system for
19 graduate work and undergraduate work, might be the way to go in
20 order to facilitate more students into the system.

21 I also would like to take a look at how the segments
22 communicate, and what articulation there is between the
23 segments. To my own surprise, I see us in competition at times.
24 We're serving the State of California, and there are times where
25 we just aren't articulating for the benefit of our students.
26 And I'd like to see the Master Plan revisited in order for us to
27 look at the future and be more student service oriented than to
28

1 be more self or turf and domain oriented.

2 CHAIRMAN ROBERTI: Very good. Very well put.

3 Any other questions of Ms. Petrossian?

4 Is there any opposition in the audience?

5 MS. PETROSSIAN: May I just answer something?

6 CHAIRMAN ROBERTI: Please.

7 MS. PETROSSIAN: Senator Ayala, you asked about
8 setting up priorities.

9 On our March agenda of the Community College Board of
10 Governors, there will be a first attempt at setting up
11 priorities.

12 I must tell you that we expect this to be a very
13 unpleasant agenda item, because if we say that senior citizens
14 don't have a priority, we're in trouble because that seems to be
15 the way for a number of senior citizens to have an outlet for
16 themselves for continued growth. If we say the priority goes to
17 high school students who are transfer-oriented, we're in
18 trouble. So, no matter what we establish as a priority, we
19 expect we will be alienating someone in our contingency or in
20 our constituency.

21 However, the agenda item will be before us in March.

22 SENATOR AYALA: I accept that. But shouldn't we do
23 better than we're doing today, though?

24 MS. PETROSSIAN: Oh, I think so. I think we have no
25 choice.

26 SENATOR AYALA: I know it's a problem the way you go,
27 but shouldn't you have some idea as to which student will be
28

1 accepted and which will not, and you can't please everybody.
2 That's for sure. But let's make a policy that's flexible enough
3 to be used, generally speaking, and have an idea where we are,
4 as opposed to not having a policy at all.

5 MS. PETROSSIAN: That's right. And in fact, the
6 Legislators and the Governor's Office who nudged us in this
7 direction on the differentiated fee, the differentiated fee
8 didn't please very many people, and so we decided there must be
9 another way of looking at it, and certainly priorities will be
10 something. We'll be having a report on very soon.

11 CHAIRMAN ROBERTI: Thank you again.

12 SENATOR BEVERLY: Move we recommend confirmation.

13 CHAIRMAN ROBERTI: Senator Beverly has a motion.

14 Secretary will call the roll.

15 SECRETARY WEBB: Senator Ayala.

16 SENATOR AYALA: Aye.

17 SECRETARY WEBB: Ayala Aye. Senator Beverly.

18 SENATOR BEVERLY: Aye.

19 SECRETARY WEBB: Beverly Aye. Senator Petris.

20 SENATOR PETRIS: Aye.

21 SECRETARY WEBB: Petris Aye. Senator Craven.

22 Senator Roberti.

23 CHAIRMAN ROBERTI: Aye.

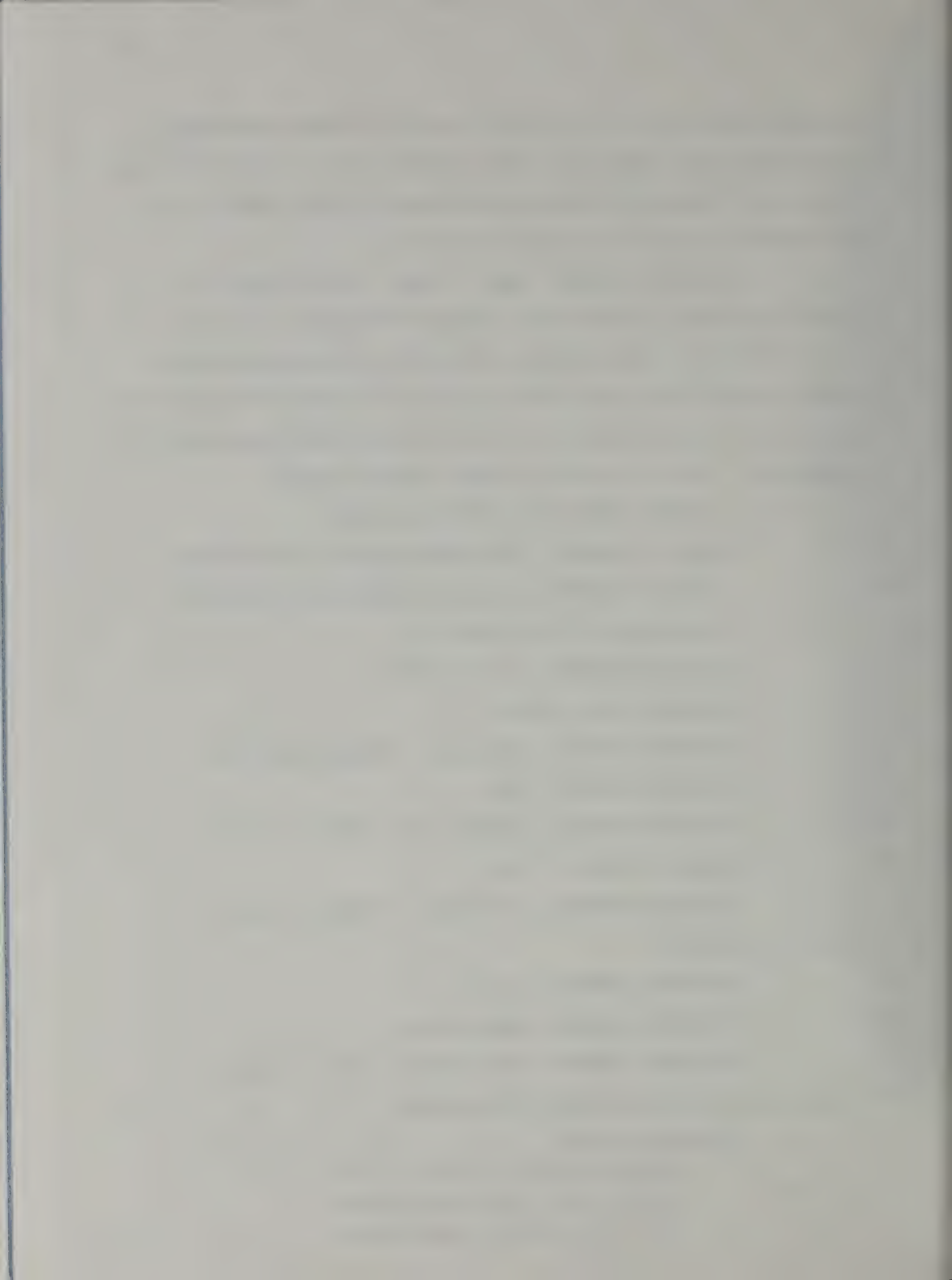
24 SECRETARY WEBB: Roberti Aye.

25 CHAIRMAN ROBERTI: The vote is four to zero;

26 confirmation is recommended to the Floor.

27 Congratulations.

28 [Thereupon this portion of the
Senate Rules Committee hearing
was terminated at approximately
2:45 P.M.]



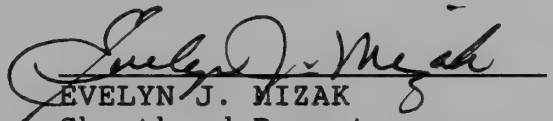
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of January, 1993.


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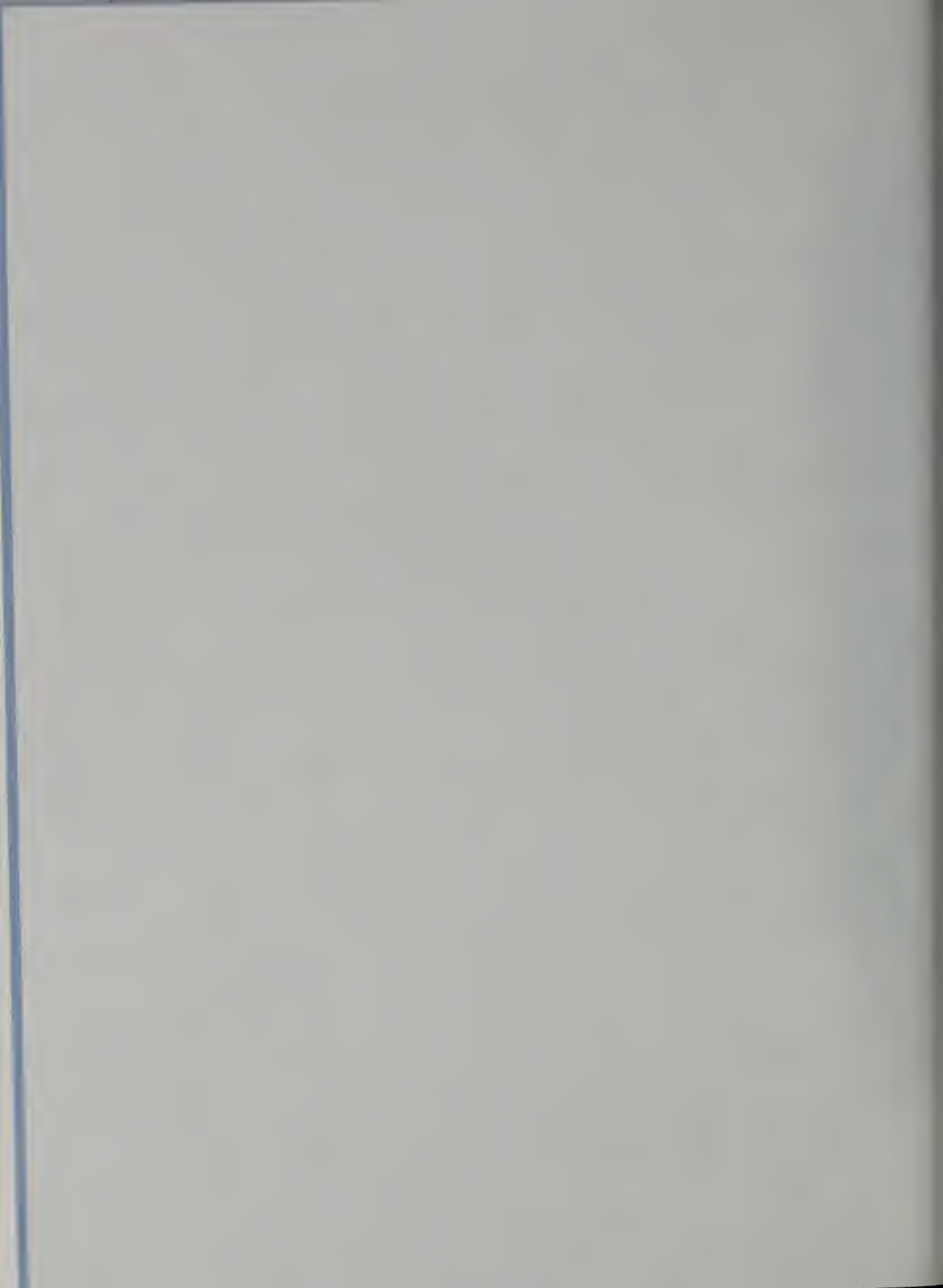
SACRAMENTO, CALIFORNIA

WEDNESDAY, JANUARY 27, 1993

2:12 P.M.

Reported by:

Evelyn J. Mizak
Shorthand Reporter



APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR RUBEN AYALA

SENATOR ROBERT BEVERLY

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

MARY BARNETT, Member
Acupuncture Committee

DAVID Y.C. CHEN, O.M.D., Member
Acupuncture Committee

JANE M. EMERSON, Member
Acupuncture Committee

MARGUERITE HUNG, O.M.D., Member
Acupuncture Committee

ANGELA YING TU, Member
Acupuncture Committee

JEANNE TUMANJAN, Member
Acupuncture Committee

SENATOR DANIEL BOATWRIGHT, Chair
Senate Business & Professions Committee



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THE HISTORY OF THE

REIGN OF

CHARLES THE FIRST

BY

JOHN BURNET

OF

THE UNIVERSITY OF OXFORD

IN TWO VOLUMES

THE SECOND VOLUME

CONTAINING

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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: We're going to be joined for the hearing on the governor's appointees to the Acupuncture Committee by Senator Dan Boatwright, the Chairman of the Senate Business and Professions Committee, which is the committee which hears the subject matter of acupuncture questions.

I think I will ask all the members of the Acupuncture Board to come up as a group. We don't ordinarily do that, but I will call you name. If you could come up, and we will hear the Board at once.

So, if Dr. David Y.C. Chen would come forward, Jane Emerson, Marguerite Hung, Angela Ying Tu, and Jeanne Tumanjan. These are all Governor's appointees to the Acupuncture Committee. Oh, excuse me, Mary Barnett.

Sorry, Ms. Barnett. You were at the very top.

SENATOR AYALA: Mr. Chairman, question.

Are these appointments who have been re-appointed, or are they being appointed for the first time?

CHAIRMAN ROBERTI: I think each is a different case. Some are first time, and some are re-appointments.

Why don't you indicate that for Senator Ayala, if you've sat on the Board previously, or if this is your first appointment.

DR. CHEN: Honorable Senators, I'm David Chen, Chairperson of Acupuncture Committee. I'm seeking for re-appointment.

1 The rest of the members here, five of them, are new
2 appointees.

3 CHAIRMAN ROBERTI: Very good, thank you.

4 SENATOR AYALA: You're a holdover from the prior
5 board, and these are all new appointees here?

6 DR. CHEN: Yes, your Honor. Thank you, your Honor.

7 CHAIRMAN ROBERTI: If each one of you could briefly
8 state why you feel you are qualified to assume this position;
9 give us a little review of your background in this area, and
10 we'll just start from my left, your right, to the end of the
11 table. Then I think Senator Boatwright has some questions and
12 observations that he would like to share.

13 So, once again, identify yourself, and then we'll
14 just go from right to left.

15 DR. CHEN: Yes, thank you. Good afternoon, honorable
16 Senators.

17 My name is David Chen. I appreciate this opportunity
18 to be here today. I'm very, very glad. I have been working
19 with the committee for one year with all these outstanding
20 members that are in front of you today. And they are not only
21 the community leaders, they are also the toughest and the best
22 persons from every corner from California. They're devoting
23 their wisdoms, their energy, their time, most of all, even their
24 own money to committed [sic] to do public service as a team. I
25 can say this is the best team that I ever worked with.

26 And why I want to be on this committee, I've been
27 practicing acupuncture for 17 years. And 17 years hard-working,
28

1 from a poor immigrant to today, as a citizen of the United
2 States of America, and I have my own car. I have my own house
3 and with a decent life. This is all given to me by this
4 beautiful society.

5 Seventeen years went by real, real fast, and I asked
6 myself: what can I do for this society? The most direct answer
7 is to serve the public. So, I apply for position, and honorable
8 Governor Pete Wilson appoint me to this committee, and giving me
9 this opportunity to stand in front of you today and ask for your
10 confirmation to make my dream come true, to serve the public.

11 I personally do not have any personal conflict of
12 interest, nor personal ego, nor anything to gain from this
13 position, except to serve the public. I want to do my job with
14 your kind confirmations. I will do my best to serve the public.

15 And again, I appreciate this opportunity to appear in
16 front of honorable Senators today. Thank you.

17 CHAIRMAN ROBERTI: Thank you very much, Doctor.

18 DR. CHEN: My pleasure. Thank you, sir.

19 CHAIRMAN ROBERTI: Next.

20 MS. TU: Thank you.

21 I want to thank the Rules Committee --

22 CHAIRMAN ROBERTI: Your name is --

23 MS. TU: My name is Angela Tu, and I'm a private
24 practicing acupuncturist in Walnut Creek, and also an Associate
25 Professor of Chinese Medicine at the Academy of Chinese Culture
26 and Health Sciences in Oakland.

27 I also want to thank the Committee for the kindness
28

1 in hearing us out on our confirmation, and thank the opportunity
2 to appear before the Senate Committee.

3 I was urged to apply for this job by my colleagues
4 from the profession, feeling that -- who felt that my expertise
5 and experience in my -- in this profession would help the
6 committee to a better understanding of the professions, and in
7 guiding and in leading this profession to a better standards
8 where it can better serve the public interest and the people of
9 California.

10 And I feel honored to have been given this
11 opportunity to serve this country who has adopted me, at 50
12 years old, to become a citizen in this country.

13 My background, that I have been trained in both
14 eastern and western medicine. I was already initially trained
15 as a western physician and practiced 22 years of western
16 medicine in China, and the last five years, after being trained
17 in Chinese medicine, I was able to integrate both eastern and
18 western medicine together in my practice and personally
19 experience the benefits of calm, of integrating both medicine
20 and how much good it can do to the patients and also in reducing
21 the care -- the costs of health care.

22 Since getting my -- receiving my license in 1982 in
23 this country, I have worked consistently in improving the
24 quality of the acupuncture profession, both in education-wise
25 and in professional activities. I have also actively lobbied
26 for the benefits of the -- the recognition of acupuncture, and I
27 have had the pleasure and honor to meet with a lot of the
28



1 Senators -- Senator Petris and Senator Roberti -- on different
2 occasions at the State Capitol.

3 I have been for nine years consecutively a board
4 member of the California Certified Acupuncturists Association in
5 charge of continuing education, in charge of public interest,
6 public affairs, and political affairs. I have also been
7 actively involved in the National Commission for Certified --
8 for Certification of Acupuncturists, and I am currently one of
9 the nine commissioners on the board. I served as a member of
10 the Examination Committee and have been actively involved in
11 developing the examination, the National Board examinations in
12 -- from the comprehensive examination, the point location
13 examination, the clean needle technique courses, and the clean
14 needle technique examinations. And through these years, the
15 examinations have gradually been established for -- recognized
16 for its validity, reliability and fairness.

17 And I felt that my expertise in this field will also
18 the state committee in adapting the rules and regulations that
19 is needed to improve the professions.

20 Again, I thank you.

21 CHAIRMAN ROBERTI: Thank you very much.

22 DR. HUNG: My name is Marguerite Hung. I'm from San
23 Diego.

24 I practiced acupuncture in South San Diego, Chula
25 Vista, since 1980.

26 Mr. Chairman and Members of the Committee, I have
27 dedicated my life to the care of the patients through
28

1 traditional Chinese medicine. This ancient medical art has a
2 history of over 5,000 years. It's also a part of my own
3 cultural history.

4 With the cultural diversity that presently exists in
5 California, it is a fact that acupuncture and oriental medicine
6 is primary health care for several hundred thousand residents
7 of our state.

8 I was honored when my profession -- professional
9 association support my appointment. I also believe that a
10 bilingual committee member can be an asset of this unique body.
11 Principally, both oversee and serve so many who are unable to
12 communicate English well to the public.

13 I promise my best effort to demand confidence with
14 the regulatory matters, and to give a fair hearing to all these
15 who appear before the committee. I believe that by upgrading
16 educational and professional standards, it will serve the our
17 profession and consumers, beneficiaries.

18 In all my work on the Acupuncture Committee, I shall
19 remember the confidence placed in me by appointment, and the
20 trust placed in me by the Senate through this confirmation
21 process. I accept it as an honor to serve my profession and to
22 protect the welfare of the consumers of our state.

23 Thank you very much.

24 CHAIRMAN ROBERTI: Thank you very much.

25 Ms. Barnett.

26 MS. BARNETT: Good afternoon, Senators, Mr. Chairman
27 and Senators. My name is Mary Jane Barnett. I am a resident of
28

1 Carmichael, and I'm the public member appointed in April, 1992.

2 I feel that I'm qualified to be a public member of
3 the Acupuncture Committee for a variety of reasons. First,
4 since 1968, I've been involved in numerous volunteer
5 organizations throughout the state, the first one being
6 appointment from the Governor's Conference on Youth during my
7 college years. I've been a board member of three different
8 schools in Southern California, and now at two in Sacramento.

9 My extensive leadership training as an event
10 coordinator with the Los Angeles World Affairs Council, and
11 meeting planner, coupled with my life's work as a mother of
12 seven children, afford me the skills necessary to manage the
13 large amount of information that we at the Acupuncture Committee
14 review.

15 Secondly, I've been an Acupuncture Committee member
16 for the past ten months, working with a group of dedicated women
17 and man, both acupuncturists and public members, who have
18 diligently worked to ensure that both the public and profession
19 are well served. I sit on the Education Committee, the
20 Executive Committee, and the Enforcement Committee, and wish to
21 continue the work that we began last year.

22 Thank you.

23 CHAIRMAN ROBERTI: Thank you very much.

24 MS. EMERSON: Good afternoon, gentlemen.

25 Mr. Chairman, I'm Janie Emerson. I'm from the San
26 Diego area. I was appointed in March as a public member of this
27 committee.
28

1 I'll just highlight some things from my background,
2 since I know you have that information in front of you.

3 I went to the University of California at Santa
4 Barbara and graduated in Chinese History. I have always had a
5 deep love and desire of the orient, and went on and pursued
6 graduate work in that area and studied Chinese history and
7 culture, which gives me an understanding of the background and
8 history of these people and some of their modus operandi, which
9 is an important factor on this committee.

10 I've been in business for over 25 years, and the last
11 15 years, I've had my own business as a facilitator and business
12 consultant. And I am hired by nonprofits, political
13 organizations, private businesses, and large corporations to
14 come in and solve their problems, to make dramatic results and
15 turn companies around, to streamline operations, save money, and
16 serve the public better. All of these things have already been
17 put to use in this committee.

18 As a very small child, I was introduced to every kind
19 of medicine known, because my parents believed that
20 nontraditional medicine was a good adjunct to traditional
21 medicine. So, I have been party to this kind of practice ever
22 since I was a small child. I learned the value of looking at
23 all different kinds of practices from all different types of
24 people to evaluate if they are helpful. And I feel that this
25 type of combination is the future of health care for the United
26 States.

27 I have been an active volunteer for years and years.
28

1 I've been in leadership positions in the Junior League of San
2 Diego. I was selected as the member of Lead San Diego as one of
3 the future leaders of that city, and we had a long and detailed
4 training course. I've served in many, many other positions
5 throughout my time as a volunteer, and part of that was to learn
6 to give back to the community that I was so fortunate to gain
7 skills, contacts, and business from.

8 My goals as a member of this committee are to serve
9 the public, to represent their views to the committee, to hear
10 their views and bring them, and to be an advocate for them.

11 Another goal was to streamline the functions of the
12 committee to make it more efficient, more accessible to the
13 public, and easier to understand. We've already accomplished
14 many of those and have more to work on.

15 Another goal was to make California a leader in this
16 profession throughout the United States. We have a great
17 opportunity here, with many things happening in health care
18 right now to really make this a quality committee, a quality
19 profession that's looked to by everybody.

20 In the last ten months, as Ms. Barnett said, we've
21 dealt with some thorny issues, and I've been honored to serve
22 with a committee that is committed to the acupuncture excellence
23 in California, a group of hard-working, creative, dedicated
24 professionals who are not afraid to disagree, and who are
25 willing to make a compromise and do the best for this
26 profession. I am proud to serve with these people and hope to
27 do so in the future.

28

1 CHAIRMAN ROBERTI: Thank you very much.

2 MS. TUMANJAN: Hello and good afternoon, Mr. Chairman
3 and Committee Members.

4 My name is Jeanne Tumanjan. I'm a licensed
5 acupuncturist. I've been licensed since 1987, and have been
6 involved in alternative health care since 1981. I am currently
7 in practice with a medical doctor in Orange County and am very
8 dedicated to my work.

9 My qualifications prior to becoming an Acupuncture
10 Committee member include working with the California Acupuncture
11 Association. Since 1987, my activities included being on their
12 Board of Directors, the Orange County Chapter representative,
13 and the Conference Director and Coordinator of the Association's
14 annual Conferences. I currently sit on the Board of Directors
15 for the Center for Oriental Medical Research and Education as
16 the Executive Secretary, and am also in charge of public
17 relations and fundraising.

18 My past positions included being an office manager of
19 acupuncture and chiropractic offices, as well as being in upper
20 management for a real estate developer for seven years.

21 My reason for applying for this position was mainly
22 due to my frustration and deep concern with the representation
23 and lack of accomplishments of the past committee's ethics and
24 activities. These were -- there were constant problems, as I'm
25 sure you all know. I felt that at any moment, the Acupuncture
26 Committee could cease to exist if things didn't seriously
27 change.
28

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1 My main goal as a committee member is to ensure the
2 safety and competence of practitioners to the public, as well as
3 raising the standards and credibility of the committee itself.

4 During this past year, I've spent countless hours
5 researching each issue, evaluating all points of view, and
6 voting objectively, especially on some of the more recent
7 controversial issues.

8 My main interest is in enforcement. As Co-Chair of
9 the Enforcement Committee, I have begun work with our Executive
10 Officer on changing long overdue regulations, instituting
11 disciplinary guidelines, creating random audits on continuing
12 education providers and acupuncturists, and follow-through on
13 lapsed and delinquent licensees.

14 My other objective includes increasing favorable
15 communications between the profession, the State Legislature,
16 the schools, the state associations, and the public so that we
17 may be looked upon with integrity instead of dread.

18 Our rules and regulations speak of equal
19 representation of all cultures of the profession. Believe it or
20 not, I am the first Caucasian acupuncturist to ever be appointed
21 to this committee since its inception. I feel my position can
22 greatly bridge the gap that has long been standing among the
23 diversity of our profession.

24 In closing, I would like to someday be able to look
25 back upon my tenure on the committee with pride for the progress
26 and changes the committee has made towards raising the
27 profession's credibility and standards at all levels.
28

1. The first part of the document is a letter from the President of the United States to the Congress.

2. The second part is a report from the Secretary of the Treasury on the state of the Union.

3. The third part is a report from the Secretary of the Navy on the state of the Navy.

4. The fourth part is a report from the Secretary of the War on the state of the War.

5. The fifth part is a report from the Secretary of the Interior on the state of the Interior.

6. The sixth part is a report from the Secretary of the Agriculture on the state of the Agriculture.

7. The seventh part is a report from the Secretary of the Commerce on the state of the Commerce.

8. The eighth part is a report from the Secretary of the Education on the state of the Education.

9. The ninth part is a report from the Secretary of the Health on the state of the Health.

10. The tenth part is a report from the Secretary of the Labor on the state of the Labor.

11. The eleventh part is a report from the Secretary of the Finance on the state of the Finance.

12. The twelfth part is a report from the Secretary of the Justice on the state of the Justice.

13. The thirteenth part is a report from the Secretary of the State on the state of the State.

14. The fourteenth part is a report from the Secretary of the War on the state of the War.

15. The fifteenth part is a report from the Secretary of the Navy on the state of the Navy.

16. The sixteenth part is a report from the Secretary of the Interior on the state of the Interior.

17. The seventeenth part is a report from the Secretary of the Agriculture on the state of the Agriculture.

18. The eighteenth part is a report from the Secretary of the Commerce on the state of the Commerce.

19. The nineteenth part is a report from the Secretary of the Education on the state of the Education.

20. The twentieth part is a report from the Secretary of the Health on the state of the Health.

21. The twenty-first part is a report from the Secretary of the Labor on the state of the Labor.

22. The twenty-second part is a report from the Secretary of the Finance on the state of the Finance.

23. The twenty-third part is a report from the Secretary of the Justice on the state of the Justice.

24. The twenty-fourth part is a report from the Secretary of the State on the state of the State.

25. The twenty-fifth part is a report from the Secretary of the War on the state of the War.

1 Thank you for your time.

2 CHAIRMAN ROBERTI: Thank you very much, Doctor.

3 Are there any questions? Senator Boatwright.

4 SENATOR BOATWRIGHT: Thank you, Mr. Chairman and
5 Members.

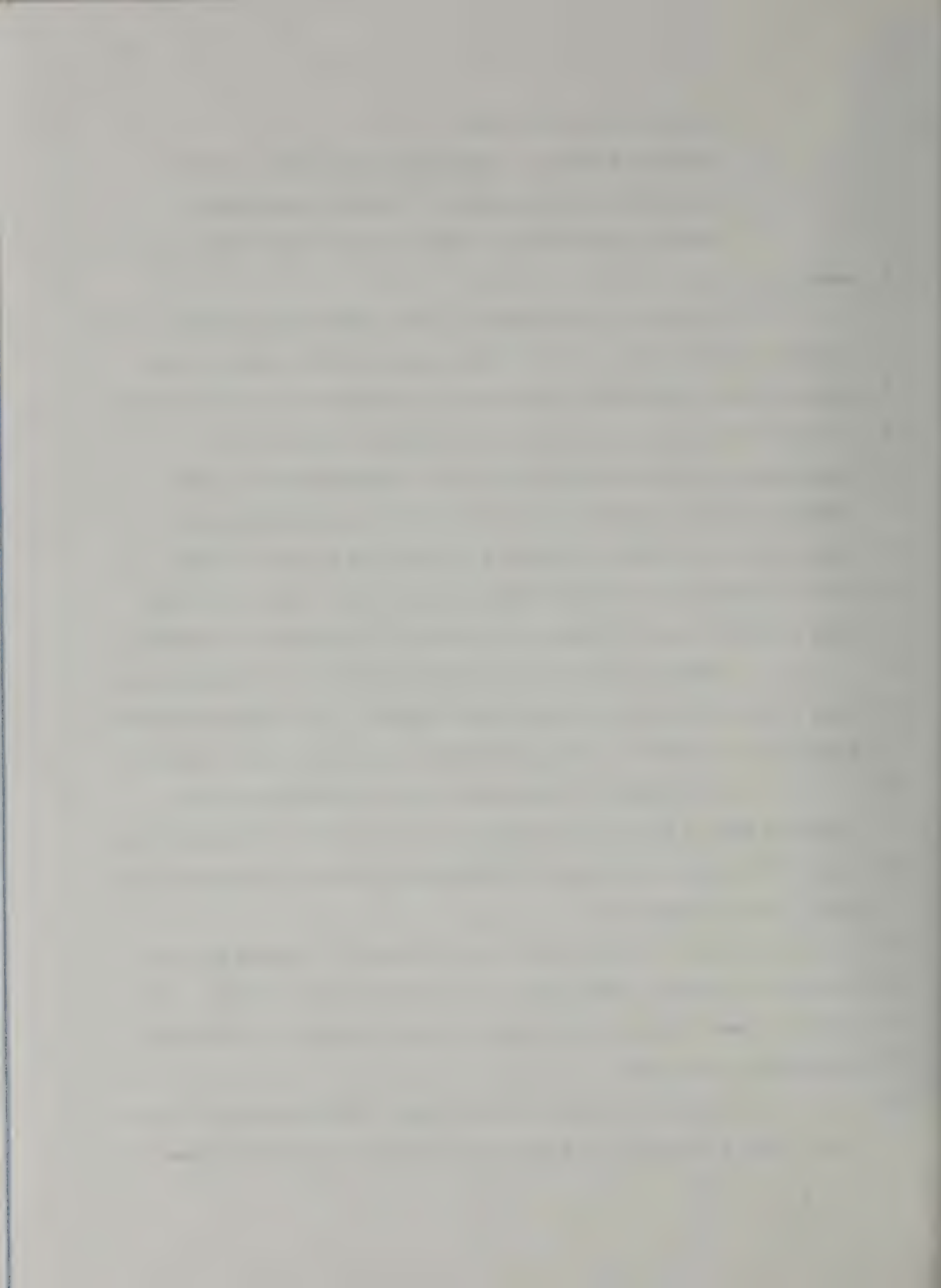
6 I'm here today because I have grave concern about the
7 Acupuncture Committee. When I was appointed Chairman of the
8 Business and Professions Committee, I determine that one of the
9 things that would happen would be that all the boards,
10 commissions, that were subject to the jurisdiction of that
11 committee would finally try to get from the committee the
12 realization that they're there for only one purpose. And
13 Senator Craven, you've heard me say this many times. We and
14 they are only there to serve the public, to protect the public.

15 They're not there simply to license, so someone can
16 hang a certification on their walls saying, "I'm licensed by the
17 State of California". It's not there to promote associations.

18 It's there to make sure that the people who are
19 licensed have a certain standard of criteria that they have met
20 that will ensure that they can adequately protect the public in
21 their field of endeavor.

22 And I've said that over and over. I spoke to the
23 Executive Officers Association. I told them that there. I've
24 written Jimmy Conran many times and told him that. I've had
25 discussions with him.

26 And since taking over, I don't think there has been a
27 scintilla of thought, or breath of air, that this committee or
28



1 any of its members is there for any purpose other than to serve
2 the public, unlike, I think, what it used to be.

3 That was my charge when you, Senator Roberti,
4 appointed me the Chairman, was to, quote, and I'll put it in my
5 words, "Clean it up," unquote. That's what you wanted, and I've
6 tried to do that.

7 Everything that we've done has been focused on making
8 sure that the public is protected by the boards that license
9 people in various fields of endeavor.

10 And I have watched some of the boards dramatically
11 improve. Some of the boards have not improved, and frankly,
12 some of the boards have, in my opinion, slipped.

13 I believe that the Acupuncture Committee has not
14 measured up to the standards of quality that we desire of our
15 boards that operate to protect the public. I have followed them
16 rather closely. As a matter of fact, not too long ago, I
17 believe it was in February, I appeared before the board in the
18 Consumer Affairs Building. And at that time, they were in great
19 arguments among themselves that the press was covering and
20 writing about, and it was in complete disarray. And I'm sure we
21 all remember that. And I went there and urged them to get their
22 act together, and not to air their dirty linen in public, but
23 rather to do the job for the people of the State of California
24 and not the special interests.

25 Shortly after that -- and this is not part of this
26 hearing. You may want to make it part of it -- the person who
27 was the Executive Officer was fired by the board. Did not
28

1 resign, was fired by the board for whatever reasons they had. I
2 have a great comprehensive file on that, but that's not
3 necessarily before us.

4 But I think what is before us is the competency of
5 and the make-up of the current board, and whether or not they
6 are in effect protecting the public of the State of California
7 in their duties when they raise their right hand to carry out
8 the laws of the State of California and the Constitution when
9 they're sworn in as members.

10 A most recent example of that is that it was brought
11 to their attention earlier last year that there was a former
12 acupuncturist who was still practicing acupuncture who had let
13 her license not only lapse, but had gone beyond the death knell
14 expiration period of five years, which is much too long in law,
15 and that this person was practicing still. And on June 1st,
16 1992, when this was brought to the attention of the board at a
17 hearing on August -- well, in June it was brought to their
18 attention, because it was brought to their attention back in
19 May. The person was informed to cease and desist from
20 practicing; the Code sections were cited. And the person was
21 told:

22 "To obtain a valid license, you must
23 reapply with the enclosed application and
24 meet the following conditions according to
25 Section 4967:

26 (a) Has not committed any acts or
27 crimes constituting grounds for denial.
28

1 (b) Take and pass the examination
2 ... which would be required ... as if an
3 initial application for certification was
4 being made, or otherwise establishes to
5 the satisfaction of the committee that he
6 or she is qualified to practice as an
7 acupuncturist.

8 (c) Pay all of the fees that would
9 be required if an initial application for
10 certification was being made.

11 "You are hereby instructed to
12 immediately cease and desist from the
13 practice of acupuncture until you obtain a
14 valid license. You are presently
15 practicing without a valid license, which
16 is a violation of state law."

17 And the evidence sustained that, that the person had been
18 practicing without acupuncturist license in the State of
19 California for over a period of five years, which is a violation
20 of law, which means the person had committed an act which could
21 constitute a crime or grounds for denial.

22 And so, I was concerned, based upon a citizen writing
23 me a letter as Chairman of Business and Professions, and she
24 can't be here today, according to Ms. Michel. I was hopeful she
25 would, but she has a letter that's dated October 2nd, in which I
26 think she pretty succinctly lays out her concerns. And having
27 been subsequently dealt with, this issue, they became my
28

1 concerns. That is, that what had happened by this person that
2 was practicing, it was unlawful practice under the Code section;
3 it was a misdemeanor under Section 4935 of the Business and
4 Professions Codes.

5 No action was ever taken against this person, but
6 rather to the contrary, what has happened now is this. In
7 November, this board, the majority of this board, and this
8 Chairman voting "aye", voted to grant to this lady and other
9 persons who were delinquent beyond that drop-dead date of five
10 years an amnesty period and allow them to not take the initial
11 examination, which I had no problem with, paying all of the
12 appropriate fees, but rather that they will create a special
13 examination for these people, and if they passed -- and we don't
14 know what it's going to be, of course, this little special
15 examination -- then, of course, they become an acupuncturist in
16 the State of California, and they go out and practice their
17 medicine on the people of the State of California.

18 And I have concern about that because, one, what
19 continuing education have they had in the interim? I'm advised
20 there's no continuing education that's required. And if that's
21 so, then shouldn't they have to take the initial examination to
22 show we people here, who are also responsible to the citizens,
23 that we are licensing competent medical personnel?

24 In addition to that, it's my understanding that only
25 a handful of people have applied.

26 Now, the closure date is February 1st. As of
27 February 1st, we will be able to see whether or not my theory is
28

1 correct, that the exam, the special exam and amnesty period, was
2 created for simply one person, or whether it truly was a blanket
3 amnesty period.

4 So, regardless of how you would like to do today, or
5 tomorrow, or next week, I would ask that you at least wait until
6 we see how many people actually qualify to take the examination,
7 and then let's determine whether or not this was a special
8 interest case, such as the old board did when they sold
9 examinations all over the State of California, and people went
10 to prison out of that.

11 I mean, this has been historically, since it was
12 created in 1980, a corrupt board. This has been the board that
13 has been the sore on the belly of the sow of the State of
14 California.

15 CHAIRMAN ROBERTI: In fairness, these members are
16 new.

17 SENATOR BOATWRIGHT: Some are new, some, not all are
18 new that sit on the board. One is not new, though.

19 However, some of the members who are sitting here
20 today did vote for the amnesty period. And I have -- some did
21 not, though. Let me say that also.

22 I have a series of questions that I think should be
23 answered. They're in writing. And I think between now and, if
24 you would, your next meeting, when we can make a determination
25 as to the number of people who did apply under the amnesty
26 program, that these questions should be answered, because
27 they're very serious fiscal questions, and it is, number one --
28

1 CHAIRMAN ROBERTI: I think Ms. Barnett wants to
2 address the earlier point on amnesty, and then, Senator, if you
3 could then --

4 SENATOR BOATWRIGHT: Okay.

5 MS. BARNETT: Thank you, Mr. Chairman.

6 CHAIRMAN ROBERTI: Since she's the public member who
7 indicated, I think maybe that would be appropriate.

8 MS. BARNETT: Thank you.

9 CHAIRMAN ROBERTI: And then we ask --

10 MS. BARNETT: Since I was the maker of the motion for
11 the amnesty also --

12 CHAIRMAN ROBERTI: Very good.

13 MS. BARNETT: -- I'd like to recreate, and I won't
14 take much of your time. And I'll read it so I can go a little
15 quicker, the actions leading to my motion for amnesty at that
16 famous meeting.

17 In June, the Executive Officer of the Acupuncture
18 Committee sent Kay Lam a cease and desist order because of her
19 lapsed license.

20 At our August, 1992 meeting, the committee addressed
21 her five-year delinquent renewal case. During the discussion,
22 and while listening to the statement made on behalf of Kay Lam,
23 it became clear to the committee members that we needed more
24 information and wanted an investigation into her concerns as she
25 raised them.

26 In order to reinstate her license, our committee
27 counsel at the time explained to the committee that we had the
28

1 option by law to waive the re-taking of the license exam, or
2 re-order her to take the -- to re-take the exam. In any event,
3 her application and initial license fee would be collected. We
4 also understood that legally, no back fees could be collected.

5 After the committee questioned staff about
6 irregularities in our past record keeping, we voted unanimously
7 to have staff research the qualifications of Mrs. Lam, check for
8 any complaints on file, and also review our records for
9 inadequacies before taking any final action.

10 Let me just interject at this point, on October 14th,
11 1992, the committee received in writing an internal audit
12 opinion which confirmed the suspicions of many of the members
13 that you see today regarding the lack of record keeping, poor
14 record keeping, and the need for the adoption of strong
15 procedures for retaining licensing documentation.

16 At our November meeting, then, we again took up the
17 case of Kay Lam. We were assured by our staff that they had
18 researched the files, and the staff was confident that Kay Lam
19 was not practicing acupuncture since she had been notified in
20 the June written letter that she was not licensed. And staff
21 also explained to us at that time that the past records of the
22 committee were in such disarray that proper documentation could
23 not be obtained regarding the status of her renewal fees for the
24 past five years.

25 Let me just note here that this committee has been
26 aware for some time that more than 200 acupuncturists have
27 delinquent stature, and may be in the same category as Mrs. Lam.
28

1 It was with this in mind that I created the motion to allow
2 amnesty, or more appropriately, I feel that we should name it
3 now a grace period by which this issue can be resolved.

4 This issue isn't whether Kay Lam thought she paid,
5 whether she never received a renewal notice, or even whether she
6 was notified in the past years that she had a revocation of her
7 license.

8 I see the issue, and did at that time, as one of
9 protecting the public and the profession by upholding the laws
10 and regulations.

11 But, if I might be quite honest with this Committee,
12 this Acupuncture Committee has inherited an administrative
13 system that did not serve either the public or the profession.
14 Over the last ten months, since we have been appointed, we have
15 streamlined the system of record keeping, made form changes that
16 are now being used as models for other boards and committees,
17 and we feel confident that this situation will never occur
18 again.

19 My motion was meant to deal with the larger picture
20 of the past delinquencies, and to clean up the process that we
21 had begun ten months ago. This matter and this issue will be
22 resolved at the February 3rd Acupuncture Committee meeting.

23 We have sent 225 letters to those whose licenses are
24 more than five years delinquent. These people have until
25 February 1st to apply to take their licensing exam.

26 And if I just might add at the end of this, I
27 appreciate all of Senator Boatwright's comments. I wish I had
28

1 been appointed in order to -- early enough to hear your comments
2 at the February meeting. But please rest assured that we,
3 sitting here in this room today, have made those promises to
4 each other many, many times since taking over.

5 CHAIRMAN ROBERTI: Yes, Doctor.

6 DR. CHEN: Yes, honorable Chairperson and honorable
7 Senator, and honorable Senator Boatwright, with your permission,
8 I would like to report to you a couple of things.

9 As number one, I was appointed on this committee in
10 1990. I had nothing to do with the public record that was all
11 the scandal examination which occurred in '86, '87, and '88.

12 And number two, I would like to, with your
13 permission, report it to you that it's Kay Lam's case that we as
14 a committee, and I as the Chairperson, discovered this
15 situation. Immediately, I sent an internal memo to instruct
16 Curt Augustine, who was the Interim EO at the time, to
17 immediately investigate and send out a letter to lapse her
18 license, and notify her, "You are not supposed to practice,"
19 right immediately.

20 Number three, I further instructed Curt Augustine to
21 make sure follow up on this and bring it up to the full
22 committee.

23 And at the same time, with your permission, I would
24 really like to say that I am not a Chinese. I'm not an Asian.
25 I am an Asian-American.

26 And people always approach me because so-and-so is
27 Asian, therefore you're on their side. I think that's wrong.

28

1 SENATOR BOATWRIGHT: No, I don't think that was
2 referred to in my comments.

3 DR. CHEN: I know you didn't, but as sometime --

4 SENATOR BOATWRIGHT: I don't think anyone did on this
5 Committee.

6 DR. CHEN: -- and I never have personally any kind of
7 relationship with that person. And especially she personally
8 thinks I'm one of her enemies.

9 And I can honestly report it to you, none of our
10 members here consider that she is a friend, nor we have any kind
11 of personal connection at all.

12 And I further would like to report it, in 1990, the
13 budget of this committee was pulled by State of California,
14 Senate Rules and Rules Committee, and approved by especially
15 Senator Rosenthal and Assemblyman Filante. And I went ahead as
16 the Chairperson of this committee and report to them, and asked
17 them to guide me, to help me to go ahead and make sure that this
18 committee get on the track, which later on they give us back the
19 budget.

20 And they are happy to see the examination
21 progressing, that Acupuncture Committee does not run any
22 examination any more. And they are also happy to see that this
23 committee keep moving on to a point that Senator Rosenthal and
24 Filante, including State of California, all different
25 departments, change this committee into -- from a symbol of
26 shame into a symbol of improvement.

27 To my concept, I know we have not done enough. I'm
28

1 not asking you to say, give us the credit, no.

2 To my concept, it's this committee has been trying
3 its best, which is the spirit of the United States, to make
4 from the worst and move on to be the best and to be better. We
5 maybe not reach your standard which we keep working to reach
6 your standard, and we will not yield back. But this is the
7 spirit of the United States, that we will keep on working on
8 that.

9 And thank you so much, your Honor.

10 CHAIRMAN ROBERTI: Thank you, Dr. Chen.

11 SENATOR BOATWRIGHT: May I continue now?

12 CHAIRMAN ROBERTI: Senator Boatwright, yes.

13 SENATOR BOATWRIGHT: No other board, and Sharon can
14 verify this, no other board, commission, of the State of
15 California has granted an amnesty period and created a special
16 examination for its licensees such as this board has done, ever
17 in its entire history.

18 It's my belief that this was done for the sole
19 purpose of making it easier for people to pass an examination
20 who are not otherwise qualified. If they're otherwise
21 qualified, why don't they take the initial examination and pass
22 it and practice?

23 That's my point. I don't think the public's being
24 protected.

25 Incidentally, there are some attorneys here. I
26 called the State Bar, Amy Stewart, whom most of us know at the
27 State Bar. The annual dues are payable on February 1st of each
28

1 year. Let me just show you, we don't deal with health and life,
2 as do acupuncturists. February 1st of each year. If an
3 attorney does not pay his or her dues by March 5th, the dues are
4 assessed by a 50% increase. If this increased amount is not
5 paid by August 1st, the license is automatically suspended. If
6 an attorney still practices law beyond that date, he or she is
7 guilty of practicing law without a license; can, by the
8 appropriate authority, be disbarred or suspended or fined; or,
9 quite often, if it continues after they're notified to cease and
10 desist, they're prosecuted. They're put in jail.

11 And I think that standards have to be fairly uniform
12 throughout the State of California. I'm opposed to what
13 happened here. I don't think the public is protected.

14 I would ask, and I think it's real vital, that of all
15 these 290 letters that were sent out --

16 MS. BARNETT: Two hundred and twenty-nine, Senator.

17 SENATOR BOATWRIGHT: Two hundred and twenty-nine
18 letters that were sent out, I'd like to see how many people took
19 advantage of this amnesty program. And I think the Rules
20 Committee should know that. It will give you a better handle on
21 whether or not this was done as a special interest thing, or
22 done to protect the public.

23 So, that's what I'm asking today.

24 CHAIRMAN ROBERTI: Ms. Barnett or Ms. Emerson.

25 MS. BARNETT: Yes, Senator.

26 If I just might add, it is exactly because this is a
27 life and death situation that I conceived the plan, as it were,
28

1 to find these. And at the time, we were hearing all kinds of
2 numbers; 229 was the number we actually sent out, but we were
3 hearing upwards of 500 that were behind us that nobody had dealt
4 with, that the records in the office were in such a shambles,
5 nobody could find anything. It was just a mess. I mean,
6 literally, people would -- we could not track these people.

7 We had talked about this at our very first meeting
8 and all of our committee meetings, trying to set up some
9 systems, and we were in place doing that. And one of the things
10 we're working on in our new regulations is to strengthen the
11 penalties.

12 But let me just get back to this plan of mine. We
13 had, coming on to this committee, a lot of messy issues to deal
14 with. And most of it was just the way things were handled
15 before us. Nothing we really had any control over.

16 When we heard that there were maybe 500 people out
17 there, could be, practicing acupuncture with lapsed licenses,
18 some up to five years, we wanted to work on this right away. We
19 didn't -- we felt -- I felt specially because we had sat with
20 Kay Lam in front of us for two meetings, that we could be doing
21 this for the rest of our term. I wanted to deal with all of
22 them in one fell swoop, as it were. To set up a plan where we
23 could find them, if we could find them, notify them, finally,
24 because we're not sure that they were ever notified before.
25 Tell them to cease and desist, and to put them into this program
26 where we could get them to become a licensed acupuncturist in
27 the State of California.

1 We have sent 229 letters: 79 have gone to foreign
2 sources; 51 were out of state; 99 in California. We have 12
3 undeliverable in foreign areas; 15 undeliverable out of state;
4 and 57 that have come back to us in California undeliverable.
5 That leaves 42 people out there that actually -- we assume,
6 because of this post office -- that have received our letter
7 informing them that, cease and desist, and that we're getting --
8 trying -- we're offering you the opportunity to apply for this
9 plan.

10 We have received as to date, and the deadline isn't
11 -- hasn't passed, 12 requests.

12 CHAIRMAN ROBERTI: Again, when will the deadline be?

13 MS. BARNETT: February 1st.

14 CHAIRMAN ROBERTI: Monday.

15 MS. BARNETT: And we set February 1st as our standard
16 because we knew we would be meeting on February 3rd, and we
17 would further decide what we would do with whatever group of
18 people, whether it be 229 we had to deal with, or 3.

19 CHAIRMAN ROBERTI: When do you meet?

20 MS. BARNETT: February 3rd at the Department of
21 Consumer Affairs. It happens to be in Sacramento this time,
22 this quarter.

23 And we will look at the total picture at that point;
24 make our decision as to -- if there are a few, just a few people
25 that have actually gotten into this process, you know, it's
26 ridiculous to think that we should charge the committee or the
27 State of California a special -- money because we want to
28

1 process them quickly.

2 Our exam is coming up in May and June. It is my
3 personal feeling that I would move them over.

4 If we have a number of people that have come to us in
5 this situation, they really are a different group of people than
6 are the first-time exam takers.

7 And believe me, it was my foremost -- the foremost
8 issue in my mind was to rid ourselves by law, and protecting the
9 State of California, the population, from illegal practices, to
10 try to take care of what was behind us and go forward.

11 If you ever sit at any of our committee meetings, you
12 know we're a tough bunch. Dealing with seven children in my
13 house, I have to be.

14 And when you have a law, you enforce it. And if you
15 let one go, then the next one comes up to you and says, "Well,
16 you let him go. What are you going to do?" We don't believe in
17 that, and --

18 SENATOR BOATWRIGHT: I've been tracking your
19 enforcement.

20 They have one of the worst enforcement records of any
21 board at all. In fact, it's zilch. It's negative. In terms of
22 activity over the years, it's just been bad.

23 And I admire your trying to clean up the people who
24 aren't licensed. That's not my point.

25 My point was, they should be required to take the
26 initial examination if they've been out five years. That's my
27 point.
28

1 MS. BARNETT: Absolutely. We absolutely agree.

2 SENATOR BOATWRIGHT: You're giving them a special
3 examination. I have the letter here where you --

4 MS. BARNETT: Senator, that's true, too.

5 SENATOR BOATWRIGHT: Okay, you won't argue about
6 that.

7 MS. BARNETT: No, I'm not going to argue.

8 SENATOR BOATWRIGHT: Special exam. It's not the old
9 tough exam.

10 Let me tell you, if my license lapses under the State
11 Bar, they've got a real kicker. I have to go back and pass the
12 State Bar to practice.

13 MS. BARNETT: Well, actually, during our committee
14 meetings, and it isn't reflected in our normal minutes, but
15 discussion surrounding the quote/unquote "new exam" would be
16 that we would want it to be tougher and up to the standards of a
17 practicing acupuncturist, not a new exam.

18 But, we are -- we are still looking at that
19 situation. We haven't come to the end of our -- the process,
20 where February 1st, we know how many people we're talking about.
21 I mean, we haven't discussed it because we don't do that unless
22 it's --

23 CHAIRMAN ROBERTI: Can you refresh me once again as
24 to why the exam is a different exam? Senator Boatwright
25 indicates that the exam for those who have either gotten the
26 grace period or the amnesty is a somewhat different exam.

27 Doctor.
28

1 DR. CHEN: Yes, your Honor.

2 The situation, allow me to report it to you, is,
3 according to the law and regulation created by the Senate of the
4 State of California, and for Acupuncture Committee, that when a
5 person's license lapses, we do have couple choice here.

6 Number one choice is, if they can appear in front of
7 the committee, if we think -- by law. The law say. It's not
8 what I say. The law say if they appear in front of the
9 committee, the committee thinks that there's some kind of reason
10 or whatever, we can grant there be a license back, number one.

11 Number two, we can go ahead and lapse their license
12 and re-take examination.

13 Number three, we can concede it case-by-case
14 situation.

15 In this particular situation, and I would like to
16 point out, there were 200 and some people; that we are not
17 dealing with one person, or a person that -- who any one of us
18 on the committee owes him a favor, or owe her a favor. I don't
19 even -- none of us even know the person. Is just the kind of
20 know, but not buddy, or whatever, together.

21 So in this kind of situation, we did request and try
22 to ask for her to do the continuing education, and even try to
23 take the examination, which will be controlled by Central
24 Testing Unit to set it up to make sure that this person's
25 qualified.

26 Maybe we did that, something is not quite right to
27 Senator -- honorable Senator Boatwright's standard, which we
28

1 should, maybe, just tell her, say, "You should take the
2 examination all the way."

3 SENATOR BOATWRIGHT: I wrote you a letter to that
4 effect, Doctor, before you did, your November meeting, in which
5 you rejected my opinion. I have a copy of that if you want me
6 to read it.

7 DR. CHEN: No, no, no.

8 SENATOR BOATWRIGHT: Did I not?

9 DR. CHEN: No, your Honor. I don't reject your
10 opinion. I don't have the guts to do that.

11 It's just the decision of the committee. As the
12 Chairperson, I carry it out. And I will take the full
13 responsibility.

14 And with your permission, I would like to point out,
15 this person is not somebody -- I mean, all these licensees
16 already has license; is, they already took their examination.
17 They already had practiced many, many years. And most of them
18 does not have any case against them.

19 Maybe we should still tell them to take the
20 examination, but at the time, we conceded it would take more
21 time and money. So, we want to see a little bit more. See the
22 person can somewhat match the standard or not.

23 If they cannot match the standard, I guarantee you
24 that they are going to take a full examination again.

25 SENATOR BOATWRIGHT: Well, let's let the Committee
26 here know what the examination is that you keep referring to.

27 I have a letter here from you, dated December 9, and
28

1 you state:

2 "The competency examination will be
3 developed by the Department of Consumer
4 Affairs, Central Testing Unit, two expert
5 examiners who are involved in our testing
6 process, and by the A.C.'s Executive
7 Officer. This competency examination will
8 be at a level expected for someone with
9 years of practice."

10 It doesn't say any number of years, just "years of practice."

11 My point to you was, the initial examination is a
12 standard examination, a test, that has been developed and is
13 widely used as a test to test the competency of people to
14 practice acupuncture.

15 There is no standard that you set forth in your
16 letter setting forth what this competency exam is. I'd like to
17 see it. Maybe I could pass it, never having studied a moment of
18 medicine. I don't know. I'd like to see it.

19 And I have a series of questions with respect to the
20 cost, like, who's going to pay for this? Is it going to come
21 out of your general fund, since I understand you're asking for a
22 fee increase bill that comes before my committee? Are you
23 asking the other people who are licensed to pay for these
24 people, to subsidize them?

25 So, I've got a series of questions here that have
26 been passed out to the members, and I'll pass them out to you.
27 And at the next hearing, I would like to have an answer to these
28

1 cost questions about who's paying for this, how much it costs,
2 all those kinds of things.

3 DR. CHEN: Absolutely, your Honor. We will for sure
4 to answer all those questions.

5 CHAIRMAN ROBERTI: Thank you, Senator.

6 Senator Petris has a question.

7 SENATOR PETRIS: Just briefly.

8 I appreciate Senator Boatwright's appearance here as
9 the guardian of this whole area of all the professions.

10 I would recommend to the committee that you take a
11 good look at the State Bar procedure and deadline, and consider
12 adopting something --

13 MS. EMERSON: We already have.

14 SENATOR PETRIS: -- like that. You already have?

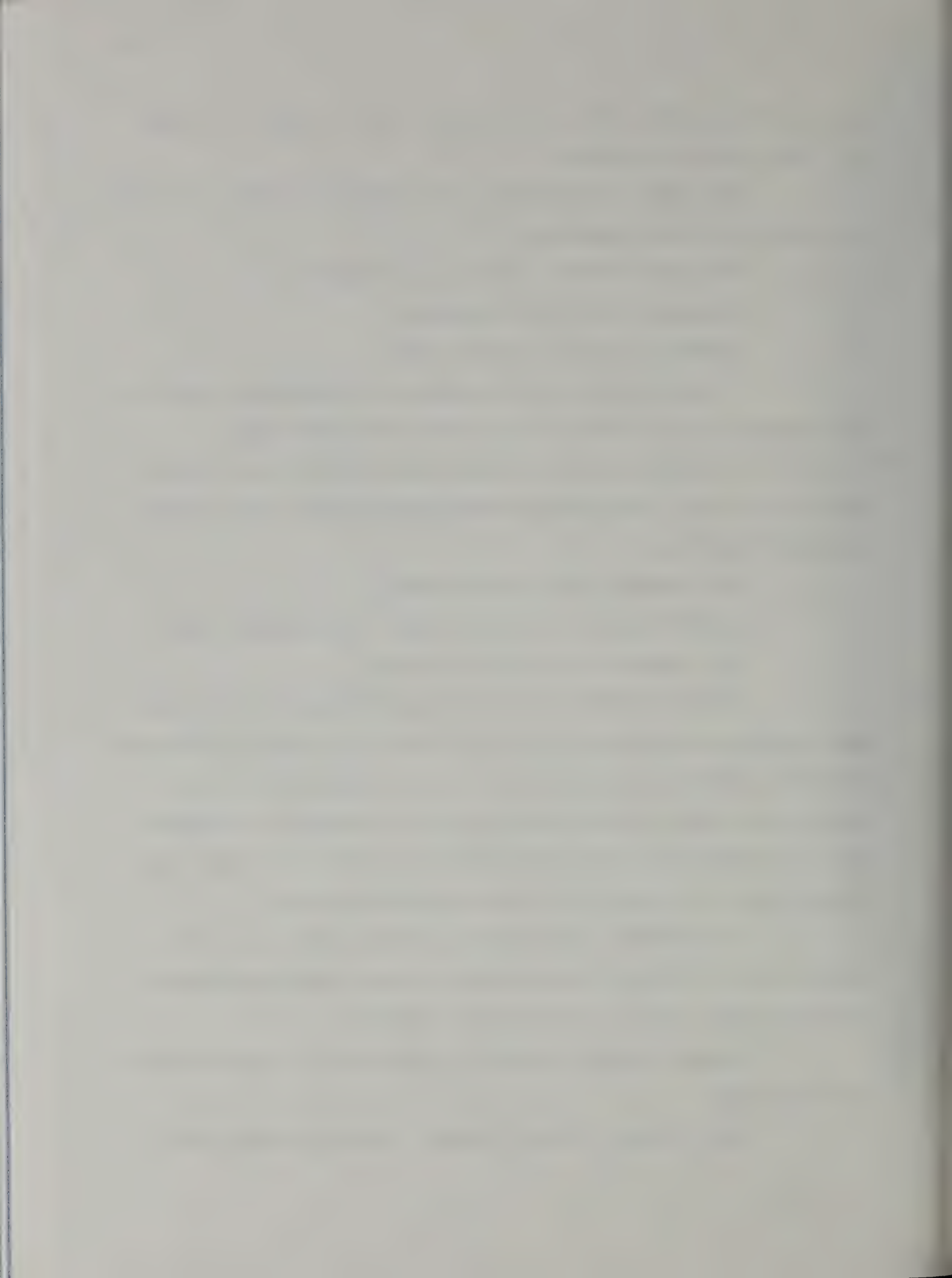
15 MS. EMERSON: It's in the works.

16 SENATOR PETRIS: And the second thing is that at our
17 next meeting, when we go into this further, I'd like to find out
18 where the monitoring broke down. I don't understand how a
19 person under your jurisdiction can stay out without a license
20 for five years, and have nobody even know about it. That just
21 seems to me to be very bad internal administration.

22 MS. BARNETT: We have an internal audit, if you'd
23 like to see it, from the time before we were there with the old
24 administration and the old Executive Officer.

25 SENATOR PETRIS: Well, I'm thinking of the time up to
26 the discovery.

27 MS. BARNETT: That's right. That's what we would
28



1 like to know.

2 SENATOR PETRIS: There's just apparently a total lack
3 of monitoring by the staff.

4 CHAIRMAN ROBERTI: Ms. Emerson, did you want to say
5 something?

6 MS. EMERSON: Well, two things, and I think they've
7 been touched on.

8 One is, we couldn't agree with Senator Boatwright
9 more. We have been working on and still are really tightening
10 up. We feel that five years is too long for a lapsed license.
11 There's legislation in the works to shorten that time period.

12 SENATOR BOATWRIGHT: To three years.

13 MS. EMERSON: Well, I've recommended two. The
14 Executive Committee of our committee has recommended two years
15 as opposed to three.

16 We also have been working with the other Allied
17 Health boards. We'd like to streamline some of these deadlines
18 and do something similar to what you're talking about. We've
19 looked at attorneys and others.

20 We would all really like to do this. Unfortunately,
21 you all work in government; you know it doesn't happen with good
22 intention in five minutes. It takes some time to do.

23 It's in the works. We're working on this.

24 In addition, we have not decided on the test yet.

25 When the applications come in, when we interview them, and make
26 sure that their continuing education is properly up to snuff, et
27 cetera, at that time a decision will be made whether to do a
28

1 special test or to go through the regular test, which is for
2 beginning acupuncturists.

3 In addition, any monies for a special test would be
4 paid by the people taking the test. It would not come from our
5 funds; it would not come from your funds.

6 So, I just wanted to answer those two points.

7 CHAIRMAN ROBERTI: Thank you very much.

8 Senator Ayala, and then Dr. Chen.

9 SENATOR AYALA: Yes.

10 I didn't quite understand Senator Boatwright's
11 suggestion that we allow them to have a three-year lapse?

12 SENATOR BOATWRIGHT: No, that's what they're
13 proposing.

14 MS. EMERSON: No, that's -- right now, the law reads
15 that we can't do anything until after five years --

16 SENATOR AYALA: Is that right?

17 MS. EMERSON: -- which we think is absolutely
18 appalling. I think anything more than 60 days is appalling.

19 SENATOR BOATWRIGHT: The bill that has been -- and I
20 had a meeting yesterday with Ann Chen and Jim Conran -- they
21 told me that you were proposing three years, the Board was
22 proposing three years.

23 MS. EMERSON: That was not the recommendation from
24 our committee. Two years was our recommendation.

25 SENATOR AYALA: I have a letter here, dated the 14th
26 of January. It's from the Department of Motor Vehicles,
27 advising me that my birthday was coming up --
28

The first part of the paper discusses the importance of the study and the objectives of the research.

The second part of the paper discusses the methodology used in the study and the data collection process.

The third part of the paper discusses the results of the study and the findings of the research.

The fourth part of the paper discusses the conclusions of the study and the implications of the findings.

The fifth part of the paper discusses the limitations of the study and the areas for future research.

The sixth part of the paper discusses the significance of the study and the contribution of the research.

The seventh part of the paper discusses the practical applications of the study and the recommendations for practice.

The eighth part of the paper discusses the ethical considerations of the study and the measures taken to ensure ethical standards.

The ninth part of the paper discusses the acknowledgments of the study and the contributions of the participants.

The tenth part of the paper discusses the references of the study and the sources of the information used.

The eleventh part of the paper discusses the appendices of the study and the additional information provided.

The twelfth part of the paper discusses the index of the study and the location of the information provided.

The thirteenth part of the paper discusses the glossary of the study and the definitions of the terms used.

The fourteenth part of the paper discusses the bibliography of the study and the list of the works cited.

1 MS. EMERSON: I agree with you.

2 SENATOR AYALA: -- and I must renew my license by
3 that day.

4 And I have exams in my mind, because I went
5 downstairs this morning, and I took the test to renew my
6 license.

7 They didn't give me one day of lapsing my license.
8 They would take my license away, and I couldn't drive. And if I
9 did, illegally, I would be penalized.

10 How is it that these people were out five years and
11 you didn't even know about it?

12 MS. EMERSON: That's the way the law reads.

13 MS. TU: That's the way it was administered.

14 CHAIRMAN ROBERTI: Dr. Ying Tu, you want to say
15 something?

16 MS. EMERSON: We would be very happy to have it that
17 way.

18 MS. TU: I felt that I really want to thank Senator
19 Boatwright for pointing out the inadequacy of the laws that are
20 currently existing with the acupuncture regulations.

21 And as a new committee member, and working on it for
22 the past ten months, I think all of us have realized how
23 inadequate it was to govern this. And we are really working
24 very hard to regulate and change the laws.

25 And I feel that, as a standard, as you are, we were
26 also very astounded to find that there were actually 229. At
27 first we had the number like 500 people that have lapsed their
28

1 license for five years.

2 And this really shows the importance and justifies
3 our decision to dismiss the former administrator that we had on
4 the board, to show that, you know, things were not being kept.
5 The records were in disarray, and we did not have any means to
6 find out who or -- who was practicing out there, and whether --
7 how their license were.

8 SENATOR AYALA: Mr. Chairman, let me just conclude.

9 CHAIRMAN ROBERTI: Yes, Senator Ayala.

10 SENATOR AYALA: In my particular case here,
11 Department of Motor Vehicles, I didn't get a single day after it
12 was expired. And you folks are dealing with health. And what's
13 more important than your health? Why should you allow someone
14 whose license lapsed to practice one hour after it lapses?

15 CHAIRMAN ROBERTI: Dr. Chen then Ms. Emerson.

16 DR. CHEN: Yes, your Honor, and also honorable
17 Senators.

18 The situation is this. We do not collect renewal
19 fee. Acupuncture Committee does not collect that. It's
20 collected by State of California, and different department
21 collects that.

22 When they collect that, usually it takes quite a long
23 time to let -- for them to notify us, say, "We did not collect
24 So-and-so."

25 So in this kind of situation, sometimes take year,
26 one year, two years or so.

27 But we already did something to try to avoid this
28

1 kind of problem to occur again, as to send an internal memo and
2 bring it up inside department and inside State of California's
3 communication, that we request that every six months, we would
4 like to have a list that shows which ones, so-and-so, did not
5 pay. And this did occur some problem, create some problem.

6 And that's the reason some of the people, when they
7 lapsed for five years, and some of them even -- we found some of
8 the records, which is not keeping by us, has not paid or has
9 paid, does not even have the record to track -- to track all the
10 way back.

11 And I'm not saying this as an excuse. Should they
12 lapse? No. It's saying just we should correct it, and we have
13 noticing that, and we want to correct the problem.

14 CHAIRMAN ROBERTI: Ms. Emerson, then Senator Beverly
15 has a question.

16 MS. EMERSON: I'm really excited about what's
17 happening here, because we're in agreement. And you all are the
18 ones that make the laws, and you're Republicans and Democrats,
19 as are we, and we're public members and doctors.

20 We would love to have it exactly like the DMV. We
21 would give nothing better than to have major penalties, and have
22 it in a short period of time.

23 Pass the law. We'll enforce it. We'd be happy to.

24 CHAIRMAN ROBERTI: Thank you.

25 Senator Beverly.

26 SENATOR BEVERLY: There was reference earlier by
27 Ms. Barnett or somebody about counsel to the committee.

28

1 Who is the counsel to your --

2 MS. BARNETT: Donald Chang.

3 SENATOR BEVERLY: Is that an Attorney General or --

4 MS. BARNETT: Department of Consumer Affairs. He's
5 our legal counsel for the committee. He sits in on all of our
6 meetings.

7 SENATOR BEVERLY: And is he from the Attorney
8 General's Office?

9 MS. BARNETT: Department of Consumer Affairs, sir.

10 SENATOR BEVERLY: Did you act with his advice?

11 MS. BARNETT: Oh, yes, sir.

12 SENATOR BEVERLY: And you were told what you were
13 doing you could lawfully do?

14 MS. BARNETT: Absolutely.

15 In fact, if I might add, this committee, because we
16 are new, looked to Don for pretty much everything, you know. We
17 state how we feel, but in the process of how we go about
18 directing our changes --

19 SENATOR BEVERLY: I'm not saying you did the right
20 thing policy-wise, perhaps, but I wanted to clear up the legal
21 question.

22 Thanks.

23 CHAIRMAN ROBERTI: Senator Boatwright is recommending
24 to the Committee -- Senator Boatwright's not a Member of the
25 Committee, but his position is one that oversees the subject
26 matter of --

27 SENATOR BOATWRIGHT: And the budget, too.
28

1 CHAIRMAN ROBERTI: -- and the budget also that you
2 deal with -- so he is recommending to the Committee that we put
3 it over until your next meeting, at which time we can judge who
4 of these people who were given this amnesty or leeway, so we can
5 adjudge the quantity and the quality.

6 So, my recommendation would be to do that. That will
7 also give you a chance to answer Senator Boatwright's questions,
8 so we can sort of narrow the focus of this confirmation hearing.
9 Senator Boatwright has come up with eleven questions, and it'll
10 give you a chance to answer those, and we will have a meeting in
11 two weeks.

12 You're meeting next week, so I think that would be a
13 conflict.

14 MS. MICHEL: On all of them except for Dr. Chen, that
15 works out. Dr. Chen's time runs out February 14th. That's two
16 weeks from next Wednesday.

17 MS. BARNETT: Senator, do you meet on the 3rd? We're
18 prepared to come back during the 3rd.

19 CHAIRMAN ROBERTI: Oh, you are prepared to come back
20 then?

21 MS. BARNETT: We have a break period in the daytime.
22 We'd be glad to. We'll all be in Sacramento, and it won't cost
23 any additional money.

24 CHAIRMAN ROBERTI: And you feel we'd have all the
25 necessary information by that time?

26 MS. BARNETT: I believe so.

27 CHAIRMAN ROBERTI: Okay, that's better then.
28

1 I think, Doctor, you would still be within the time
2 frame, but it would be kind of quick.

3 DR. CHEN: Thank you.

4 CHAIRMAN ROBERTI: We'll set it over until next week,
5 on the 3rd in the afternoon; at 1:30 we meet.

6 And to narrow the hearing to Senator Boatwright's
7 questions. Also a discussion of those people who will have been
8 at that point granted amnesty; numbers in terms of quantity and
9 qualitatively how much in offense they were as far as breaking
10 the strict renewals of their licenses.

11 So, why don't we put it over until the 3rd, next
12 week, and we'll see you all then. And hopefully, I think we can
13 come to a vote at that time.

14 Thank you, Senator Boatwright, as well.

15 SENATOR BOATWRIGHT: Thank you, Mr. Chairman and
16 Members.

17 [Thereupon this portion of the
18 Senate Rules Committee hearing
19 was terminated at approximately
20 3:17 P.M.]

21 --oo0oo--

22

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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of January, 1993.


EVELYN J. MIZAK
Shorthand Reporter

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HEARING
SENATE RULES COMMITTEE
STATE OF CALIFORNIA



STATE CAPITOL
ROOM 113
SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 3, 1993
2:13 P.M.

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SENATE RULES COMMITTEE

STATE OF CALIFORNIA

HEARING

STATE CAPITOL

ROOM 113

SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 3, 1993

2:13 P.M.

Reported by:

Evelyn J. Mizak
Shorthand Reporter



APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair

SENATOR RUBEN AYALA

SENATOR ROBERT BEVERLY

SENATOR NICHOLAS PETRIS

MEMBERS ABSENT

SENATOR WILLIAM CRAVEN, Vice Chair

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

MARY BARNETT, Member
Acupuncture Committee

DAVID Y.C. CHEN, O.M.D., Member
Acupuncture Committee

JANE M. EMERSON, Member
Acupuncture Committee

MARGUERITE HUNG, O.M.D., Member
Acupuncture Committee

ANGELA YING TU, Member
Acupuncture Committee

JEANNE TUMANJAN, Member
Acupuncture Committee

SENATOR DANIEL BOATWRIGHT, Chair
Senate Business & Professions Committee

YVONNE W. LARSEN, Member
State Board of Education



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2 FRANK R. LIGHT, Member
3 State Board of Education

4 IRENE C. CHENG, Member
5 State Board of Education

6 S. STEPHEN NAKASHIMA, Member
7 The Regents of the University of California

8 SENATOR QUENTIN KOPP
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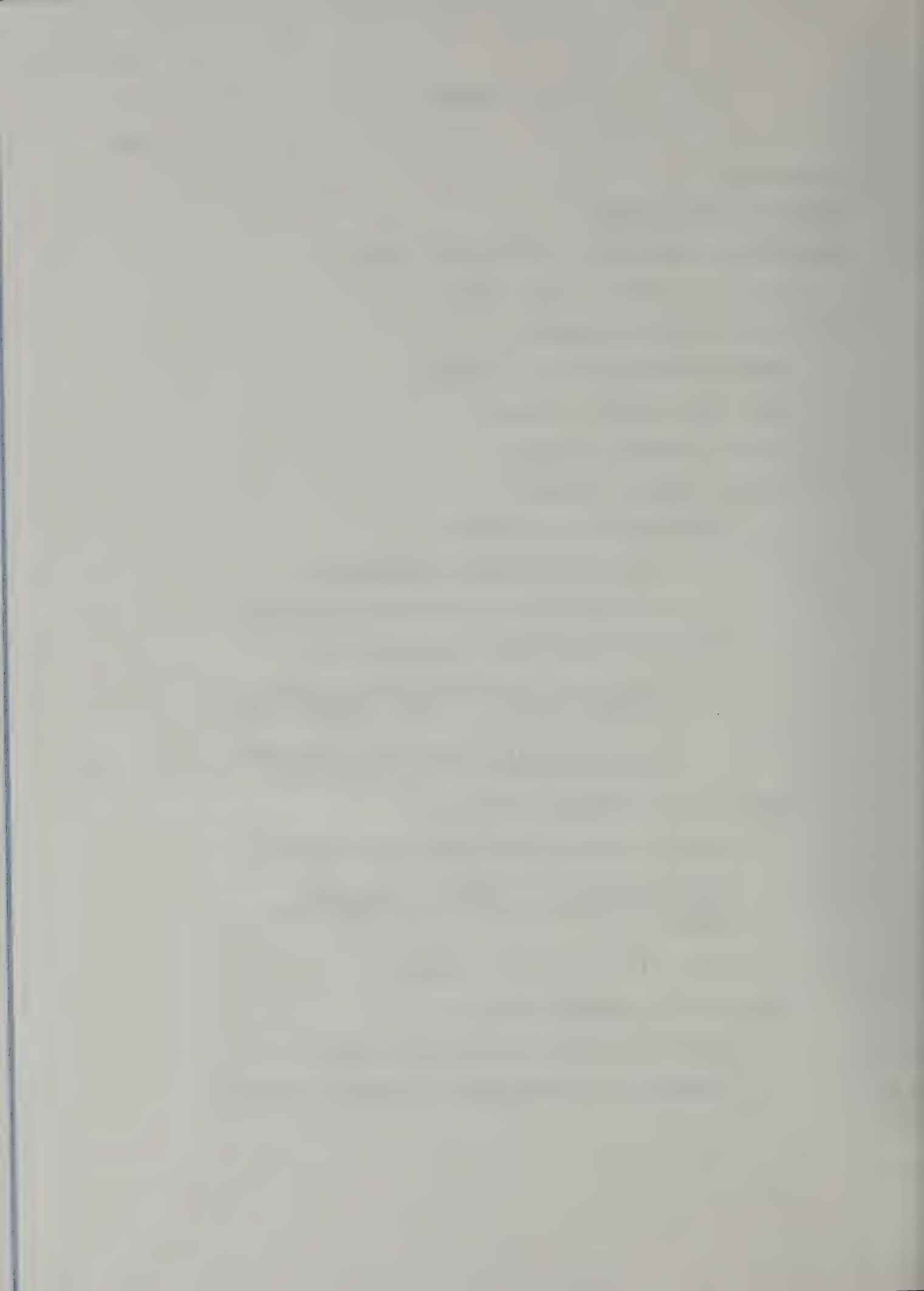
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BY JOHN BURNET

IN TWO VOLUMES

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CONTAINING THE HISTORY OF THE

REIGN OF KING CHARLES THE FIRST

AND

THE HISTORY OF THE

REIGN OF KING CHARLES THE SECOND

IN THE YEAR OF HIS REIGN 1660

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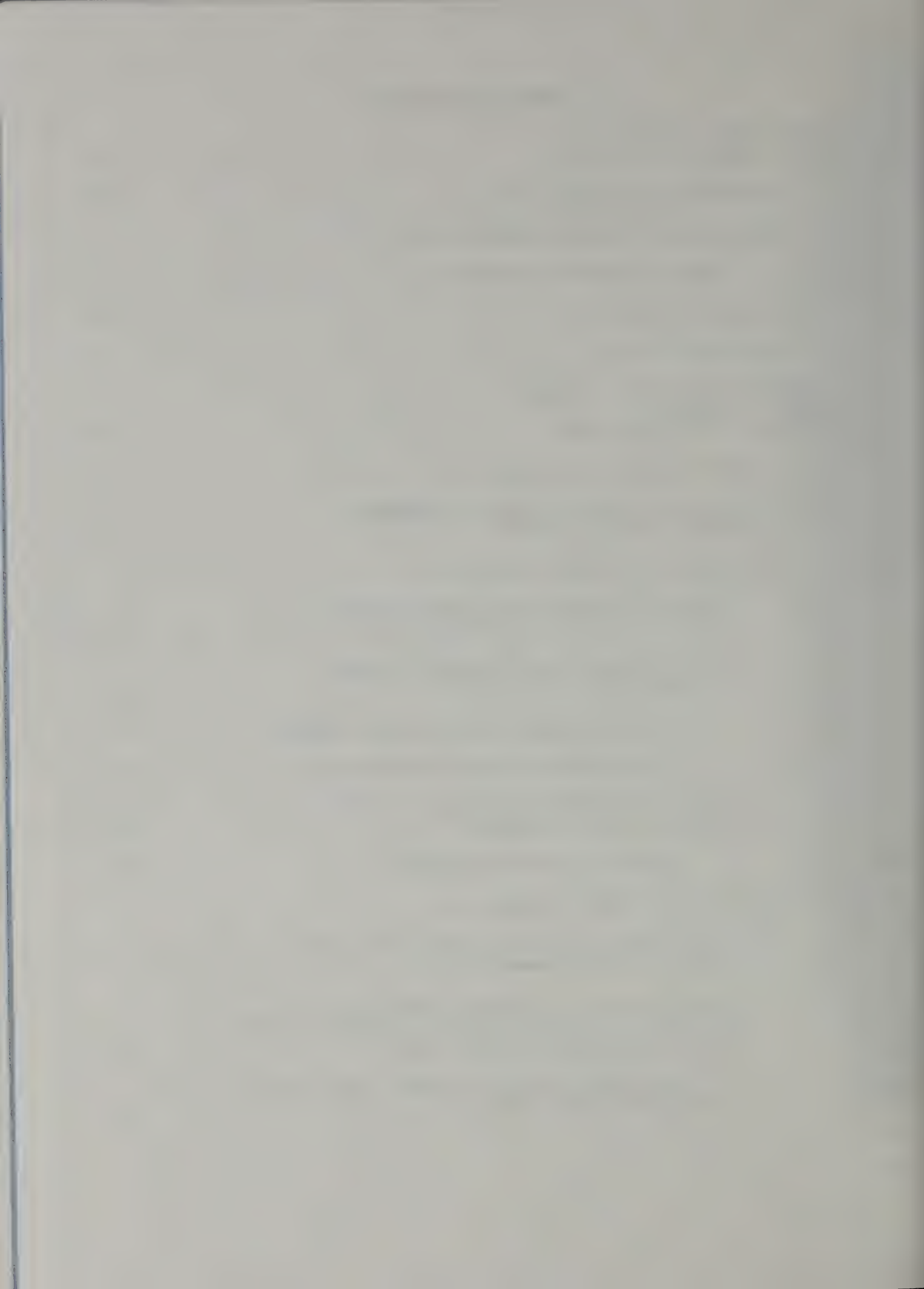
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IN TWO VOLUMES

BY JOHN BURNET

OF THE UNIVERSITY OF OXFORD

IN TWO VOLUMES

1734

BY JOHN BURNET

OF THE UNIVERSITY OF OXFORD

IN TWO VOLUMES

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IN TWO VOLUMES

BY JOHN BURNET

OF THE UNIVERSITY OF OXFORD

IN TWO VOLUMES

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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: We now have the members of the Acupuncture Committee: Mary Barnett, David Y.C. Chen, Jane M. Emerson, Marguerite Hung, Angela Ying Tu, and Jeanne Tumanjan.

And of course, Senator Boatwright has joined us for this hearing.

We had the Acupuncture Committee up last week, and we asked for some information specifically regarding Senator Boatwright's observations that he was concerned that amnesty to some acupuncturists who had allowed their license to lapse be not a special favor to those acupuncturists.

Mr. Chair, would you like to speak to the issue? I think you were going to speak as to what was going to happen at your meeting today, frankly.

DR. CHEN: Yes, honorable Chairperson, and honorable Senators, and honorable Senator Boatwright.

CHAIRMAN ROBERTI: This is Dr. Chen, the Chair of the Acupuncture Committee.

DR. CHEN: Thank you so much. My name is David Chen, Chairperson of the Acupuncture Committee.

We really appreciate Senator Boatwright's concerns, so we immediately instructed our office to prepare all the information as much as we can to forward to Senator Boatwright and to answer according to the law and his instructions.

Furthermore, that this morning, we did have a full committee meeting. And the committee meeting decides that any

THE HISTORY OF THE

REIGN OF

HENRY THE FIRST, KING OF ENGLAND.

IN WHICH ARE CONTAINED THE
LIVES OF THE PRINCES, AND THE
REMARKABLE ACTIONS OF THAT
PERIOD OF TIME.

BY

JOHN GOWER, ESQ.

OF THE BARRISTERS AT LAW.

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1794.

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THE HISTORY OF THE

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IN WHICH ARE CONTAINED THE

LIVES OF THE PRINCES, AND THE

1 licensee lapsed shall take the practical examination if they
2 want to continue their license to practice.

3 Not only that. Furthermore, they shall prove
4 themselves that they do have 40 hours of continuing education
5 required by law and also established by State of California
6 Senate. They furthermore shall prove that they do not have any
7 criminal record or any other kind of wrong doing, or any kind of
8 accusation against them.

9 So, that's this situation so far, and we are here to
10 listen to Senator Boatwright's instruction to follow that. And
11 we fully understand that we serve for the people, and we
12 appreciate the instruction from Senator Boatwright to instruct
13 for us the right direction on that.

14 CHAIRMAN ROBERTI: Thank you, Dr. Chen.

15 Senator Boatwright.

16 SENATOR BOATWRIGHT: Yes, thank you, Mr. Chairman and
17 Members, and Dr. Chen.

18 The committee did this morning -- you may recall that
19 I read the passage where a special examination was going to be
20 developed. That was set aside this morning, and the committee
21 voted unanimously, it's my understanding, to require these
22 people with the five-year lapsed license to take the regular
23 examination this June.

24 I think that's appropriate. I think that's the way
25 it should have been done, and I am very satisfied.

26 It's not that I'm just picking on the Acupuncture
27 Committee. I think you're familiar with my activities in the
28

1 hearings we had with the Medical Board itself. Out of those
2 hearings and discussions with Mr. Conran and Ann Sheehan, we, I
3 think, have made some great strides. I think Dixon Arnett, at
4 least from my point of view, is a substantial improvement over
5 the prior executive officer.

6 So, I'm pleased with what the Acupuncture Committee
7 did this morning. There were eight people out of the 229 lapsed
8 licenses that they could find that returned applications to take
9 the examination, and I'm satisfied that the Acupuncture
10 Committee understands the need that the people who do practice
11 acupuncture are in a medical profession and must have the very
12 highest standards that the State of California can impose upon
13 these people to protect the public.

14 So, I am satisfied with what the committee did this
15 morning, and it's, I think, a big step in restoring my
16 confidence, at least, in this board.

17 CHAIRMAN ROBERTI: Senator Petris, then Senator
18 Ayala.

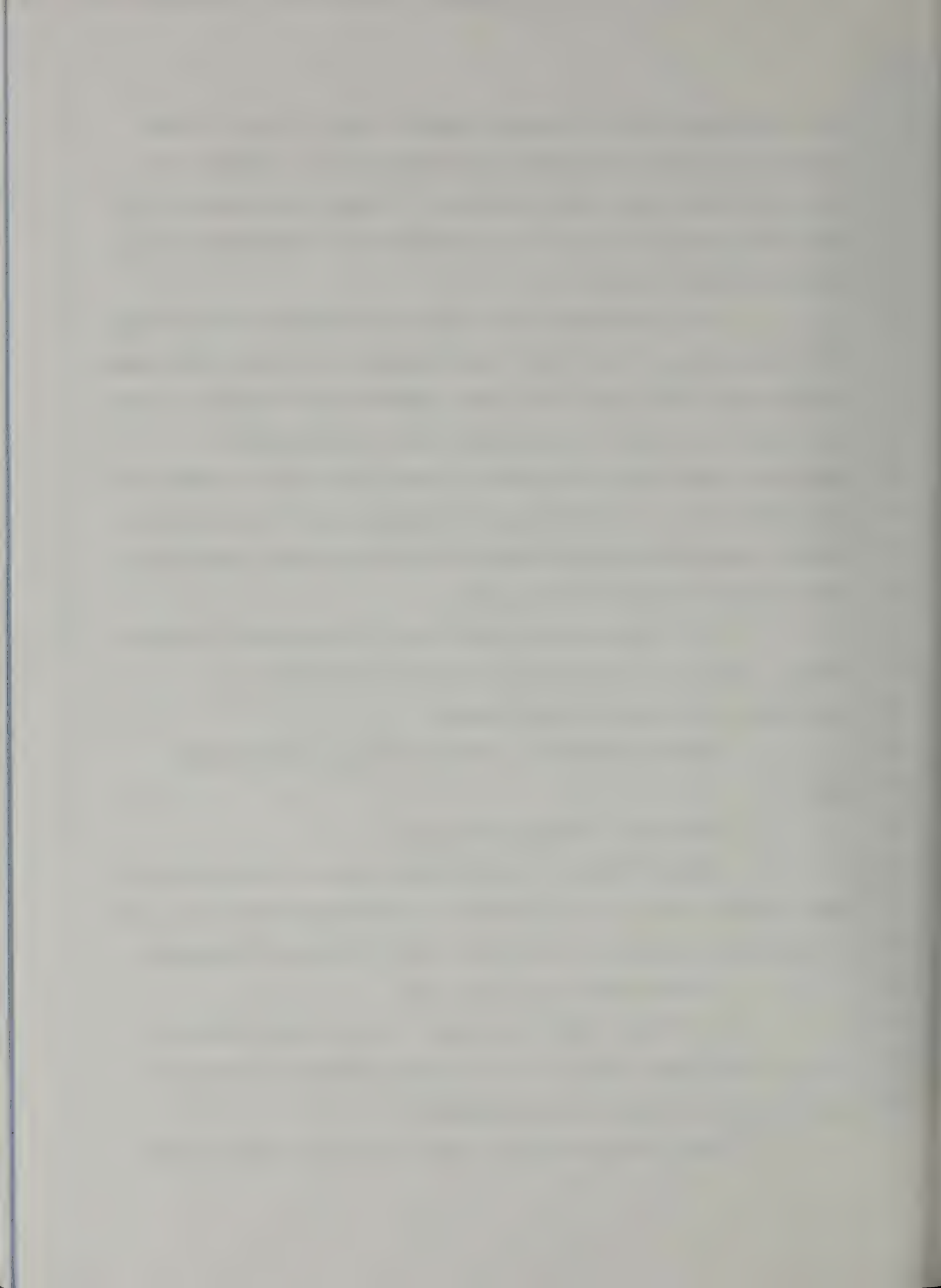
19 Thank you, Senator Boatwright.

20 SENATOR PETRIS: Is the board going to take steps to
21 keep better track of the licensees? I understand they had a lot
22 of difficulty trying to find them. Didn't have the addresses.

23 Is that being taken care of?

24 DR. CHEN: Yes, your honor. It has been taken -- I
25 will not say taken care of. It's in the process of trying to
26 taking care of by doing couple things.

27 Number one, we try to even go through every Yellow
28



1 Pages, try to -- every district, try to check on their name, and
2 try to -- because a lot of mail, we could not forward to the
3 licensees.

4 Number two, we did ask the help with three biggest
5 acupuncture organizations in the State of California. It's a
6 public record, so we released that and asked them to help us on
7 that.

8 Number three, we referred to ask the Association to
9 send our brochure/bulletin out on doing continuing education
10 lectures. Asked them to go ahead, try to announce it, and try
11 to get hold of the licensees, and to avoid it from happening.

12 And furthermore, we also request from State of
13 California, which we did it a couple months ago, that gave this
14 committee an internal audit, which is nothing -- internal audit
15 has nothing to do with us. It's not under our control. And
16 give us guidance and find out is there any other way, or
17 mistake, not except that [sic], to improve this committee, your
18 honor.

19 SENATOR PETRIS: Do the rules require the licensee to
20 keep the board informed of their address, their current address?

21 MS. BARNETT: Yes, sir.

22 SENATOR PETRIS: Is that something new?

23 MS. BARNETT: No, sir.

24 SENATOR PETRIS: It's always been there?

25 MS. BARNETT: Yes, sir.

26 SENATOR PETRIS: How are we going to monitor this in
27 the future? What changes are going to be made?

28

1 It seems to me one of the problems we learned about
2 last time was that these things are lapsing, and nobody knows
3 they're lapsing. How do you correct that?

4 DR. CHEN: Your honor, what we're trying to do is, we
5 will keep very thorough records to make sure we know they lapse.
6 When they lapse, what we did one thing is, we now have their
7 Social Security numbers, which before the law did not require
8 Social Security numbers. So, from Social Security number we try
9 to get hooked up with the line from, like, Franchise Tax Board,
10 whatsoever. Try to get the information from their Social
11 Security number their mailing address.

12 Lot of time is unfortunate when licensees they change
13 their address, they do not notify us. But with the Social
14 Security numbers here, I'm pretty sure that we can erase at
15 least half of that. For sure, some of them, less than half, if
16 they insist they want to lapse, that's not -- we can insist -- I
17 mean, we can force that.

18 But there's also one thing is up. We are presenting
19 to the State of California Senate and asking for the changes of
20 regulations regarding Acupuncture Committee. For example, like
21 five years. Before, you wait five years to lapse. Right now
22 we're asking your permission to change it to three years.

23 SENATOR PETRIS: That was mentioned last week. I
24 understand that.

25 If you're lapsed for one year, it's an oversight,
26 perhaps. You pay it up and you're okay. There's no big problem
27 there; is there?
28

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1 But when you get as long as five, then you've got a
2 question of whether they're really keeping up with the knowledge
3 of the state of the art; right? That's a lot more serious.

4 Okay, thank you.

5 DR. CHEN: Thank you so much, Senator.

6 CHAIRMAN ROBERTI: Senator Ayala.

7 SENATOR AYALA: Senator Boatwright, did you indicate
8 that they had received eight applications to take the exam out
9 of how many that had lapsed?

10 SENATOR BOATWRIGHT: Well, they were able to contact,
11 I believe, with letters 229. There were more that lapsed, but
12 that's the number that they could actually contact of the lapsed
13 licenses. So, eight out of 229 made application to take the
14 examination.

15 SENATOR AYALA: So what happens to the 221 that did
16 not respond? Are their licenses suspended; they can no longer
17 practice until they pass the exam? Is that it?

18 MS. EMERSON: Yes.

19 SENATOR AYALA: As of when? The day that the exam is
20 taken, or as of now? When is that taking place?

21 MS. BARNETT: Senator, if I might address that.

22 Their license has lapsed. We duly informed them of
23 that.

24 The only way they could reinstate their license at
25 any time would be to prove -- show proof of continuing education
26 all along, the 40 hours per year, and at this point, take the
27 examination.

28

1 SENATOR AYALA: My understanding is that their
2 license has lapsed, but they were still practicing.

3 MS. BARNETT: Well, that is something we would like
4 to determine. We have sent many letters. We are still -- we
5 feel, and we spoke about this at the Education Committee
6 yesterday, we feel that of these ones we have not heard from,
7 the population of those acupuncturists is being studied. A
8 great many of them are over 65.

9 We still feel the need to spot check if we have a
10 correct address. And that's the problem in many of them,
11 because they were undeliverable. If we can find an address, to
12 do some spot checking to see whether they are, indeed,
13 practicing.

14 SENATOR AYALA: But these folks were in violation of
15 the law; they're practicing without a license.

16 MS. BARNETT: Absolutely.

17 SENATOR AYALA: And as of the day they take the exam,
18 only those of the eight that pass the exam can practice. No one
19 else can, those that have forfeited their license over the
20 years.

21 MS. BARNETT: That's correct.

22 SENATOR AYALA: Thank you.

23 DR. CHEN: May I add one more thing, honorable
24 Senator.

25 Not only that, actually we're all notifying them. A
26 lot of letters are returned that they are notified officially
27 many, many months ago. They are not supposed to practice any
28

1 more. Their license lapsed.

2 And further more, there's about 50 percent of the
3 letter return back to us. So, we still try to enforce that and
4 go on that.

5 SENATOR AYALA: Thank you.

6 SENATOR BOATWRIGHT: Mr. Chairman, we're proposing,
7 the Business and Professions Committee will be hearing
8 legislation this year to do several things with respect to not
9 only the Acupuncture Committee, but other committees, to
10 strengthen their enforcement activities. That's been the
11 laxity, certainly, of all of the medical fields in California.

12 And you just read in the paper about the Medical
13 Board, the shredding of documents. Those kind of things.
14 Actually, illegal activities.

15 One of the things we're going to do, I believe -- and
16 Senator Ayala is on the Committee now -- is to take away from
17 the boards the discretion when a person has a totally lapsed
18 license, like five years, to take away the authority of the
19 various boards to grant alternatives to testing. I think the
20 feeling is, those people have been out of the practice so long,
21 they should be tested as they're doing now with these people.
22 So, basically it will be a new examination. Just like if your
23 license lapsed with the State Bar, after a period of time you
24 have to take the State Bar again. And we believe that same
25 proficiency requirement should be extended to all the boards,
26 including the Acupuncture Committee.

27 So, there's a lot of work to be done to make all of
28

1 the boards and commission, I think, more responsive to the
2 people, the consumer, rather than to the people they license.

3 So, thank you for your consideration. I appreciate
4 it.

5 CHAIRMAN ROBERTI: Thank you, Senator Boatwright.

6 Yes, Doctor.

7 DR. CHEN: Honorable Senator Boatwright, I would like
8 to mention one thing is, as a public record to this Committee,
9 and to the audience, that Senator Boatwright is one of the most
10 knowledgeable person that really knows about especially the
11 board functions, and we really appreciate that he try to help us
12 to get on our feet, work on.

13 Actually, this has been a good question that -- among
14 different boards for a long time, that five years lapse, and I
15 think the best way is -- should be like Senator Boatwright
16 mentioned, that it will be just automatic lapse completely, and
17 change that. And if we change it as a law by the Senate of
18 State of California, changing it to a law, then our Medical
19 Board will just go ahead, carry it out, so we don't have to go
20 through all kind of hassles trying to find them. If in five
21 years they don't want to pay, or three years, whatsoever, then
22 they re-take the examination. Let them do it.

23 And which is, we really appreciate. I have no
24 knowledge that Senator Boatwright is going to bring up this, but
25 this is one of the best, best things that really will help us a
26 lot to carry out the law and to serve the public better on that.

27 CHAIRMAN ROBERTI: Very good.
28

1 DR. CHEN: Thank you.

2 CHAIRMAN ROBERTI: Senator Petris.

3 SENATOR PETRIS: I'm just curious, Dr. Chen. Where
4 is the International Acupuncture University and Research
5 Institute? Where is that located?

6 DR. CHEN: It's in Taiwan, your honor.

7 SENATOR PETRIS: When did you get your degree there?

8 DR. CHEN: That was in 1976.

9 SENATOR PETRIS: Thank you.

10 CHAIRMAN ROBERTI: Is there any opposition to the
11 confirmation of any member to the Acupuncture Committee?

12 Then do I hear a motion to confirm the five members
13 of the committee -- six members?

14 SENATOR BEVERLY: Move we recommend confirmation of
15 six and each of them.

16 CHAIRMAN ROBERTI: Senator Beverly moves that we
17 confirm all six. That would be Dr. Chen, Dr. David Chen, Jane
18 Emerson, Marguerite Hung, Angela Ying Tu, and Jeanne Tumanjan,
19 and Mary Barnett.

20 Secretary will call the roll.

21 SECRETARY WEBB: Senator Ayala.

22 SENATOR AYALA: Aye.

23 SECRETARY WEBB: Ayala Aye. Senator Beverly.

24 SENATOR BEVERLY: Aye.

25 SECRETARY WEBB: Beverly Aye. Senator Petris.

26 SENATOR PETRIS: Aye.

27 SECRETARY WEBB: Petris Aye. Senator Craven.
28

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that this is essential for ensuring transparency and accountability in the organization's operations.

2. The second part outlines the various methods and tools used to collect and analyze data. It mentions the use of surveys, interviews, and focus groups to gather information from stakeholders. Additionally, it discusses the application of statistical analysis to interpret the collected data.

3. The third part describes the process of identifying trends and patterns in the data. It highlights the need for a systematic approach to data analysis, including the use of charts, graphs, and tables to visualize the information.

4. The fourth part focuses on the interpretation of the results and the drawing of conclusions. It stresses the importance of considering the context and limitations of the data when making decisions. It also mentions the need for ongoing monitoring and evaluation to ensure the effectiveness of the implemented strategies.

5. The fifth part discusses the challenges and limitations of the research process. It acknowledges that there may be difficulties in obtaining accurate data and that the results may be subject to bias. It suggests ways to mitigate these issues, such as using multiple data sources and conducting pilot studies.

6. The sixth part provides a summary of the key findings and recommendations. It reiterates the importance of data-driven decision-making and suggests specific actions for the organization to take based on the research results.

7. The seventh part concludes the document by expressing the hope that the findings will be useful to the organization and its stakeholders. It also mentions the possibility of future research in this area.

1 Senator Roberti.

2 CHAIRMAN ROBERTI: Aye.

3 SECRETARY WEBB: Roberti Aye.

4 CHAIRMAN ROBERTI: The vote is four to zero;
5 confirmation's recommended to the Floor.

6 I think this has been very good. Thank you, Senator
7 Boatwright, and thank the members of the committee. I think
8 we've all learned a little bit more.

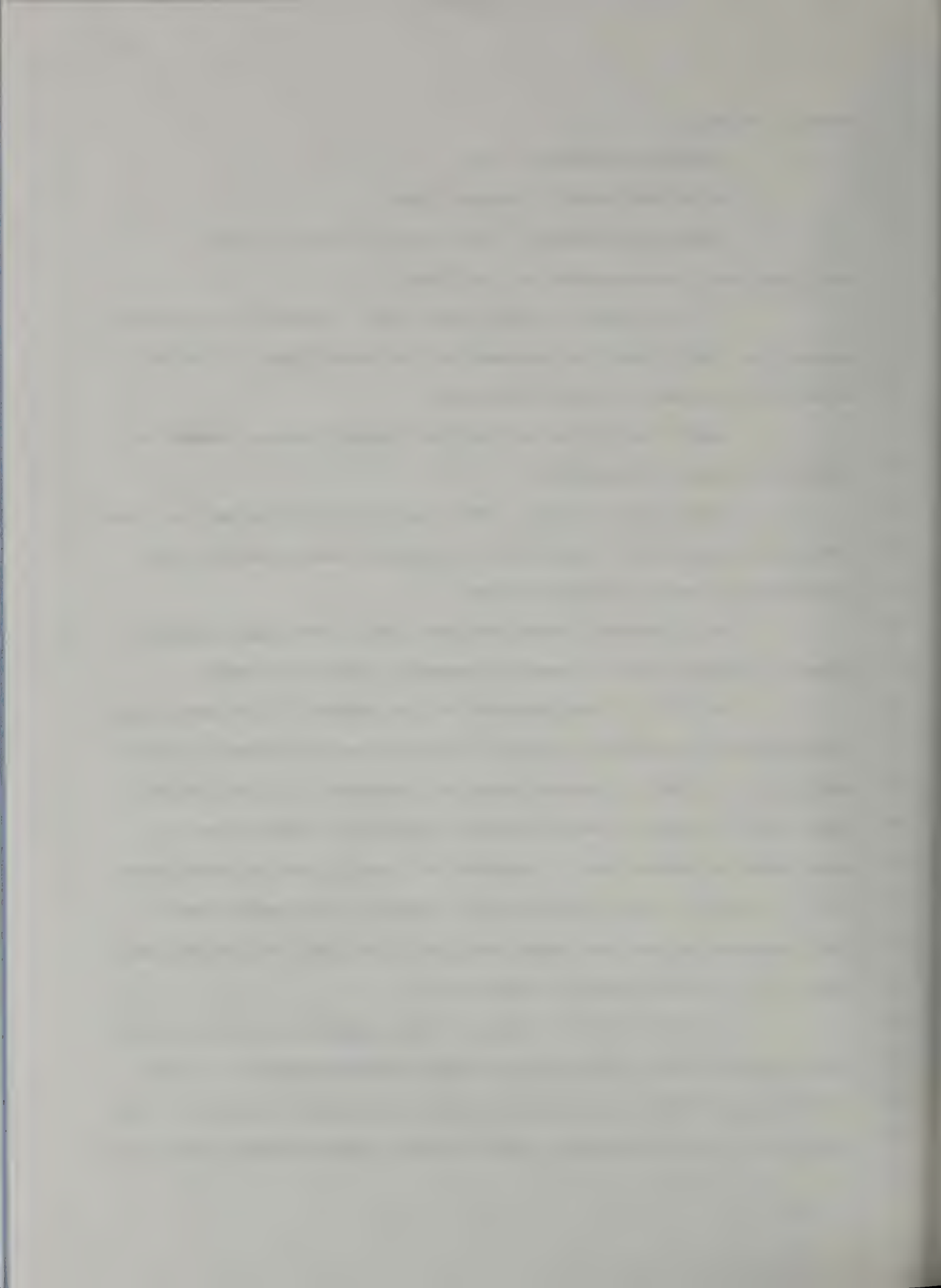
9 Next nomination is that of Yvonne Larsen, Member of
10 the State Board of Education.

11 Hello, Ms. Larsen. We'll ask you what we ask all the
12 Governor's appointees, and that is why you feel that you are
13 qualified to assume this position?

14 MS. LARSEN: Thank you very much, honorable Senator
15 Roberti, Senator Ayala, Senator Beverly, Senator Petris.

16 In 1977, I was elected to the Board of the San Diego
17 Unified School District, served two terms as President in 1980
18 and 1981. In 1981, I heard then-U.S. Secretary of Education,
19 Terry Bell, speak of establishing a National Commission on
20 Excellence in Education. Inasmuch as I was going to Washington,
21 D.C., I went to call on him, and I lobbied to be appointed to
22 that commission, and was appointed as Vice Chair of the National
23 Commission on Excellence in Education.

24 You may recall, that was the Commission that drafted
25 and presented the clarion call to the American people in 1983,
26 "A Nation at Risk, the Imperative for Educational Reform". That
27 was really the catalyst for much of the reform movement that has
28



1 transpired in the last ten years.

2 For two and a half years following that clarion call,
3 I served as a consultant to the U.S. Department of Education,
4 conducting workshops, and seminars, and symposiums, and panels
5 throughout the United States.

6 In recent years, I have worked within my community
7 primarily in the area of high-risk children's programs, youth
8 programs: drug abuse and in pregnancies. As you know, there is
9 an explosion in much of this within our state, and it is a major
10 concern. I've also worked in the literacy issue.

11 Additionally, I am a member of the Ed. Source Board
12 of Directors, which is a group that clarifies complex
13 educational issues within the State of California. And I hope
14 that resource is available to you all and helping to give you
15 some good background on the demographics and all that do take
16 place within our state.

17 Since my appointment last -- the end of last March to
18 the State Board, I have functioned as a member of the
19 Administration Committee, of the Fiscal Policy Committee, and of
20 the Screening Committee. I am serving currently as liaison to
21 the California State Summer School for the Arts Program, and as
22 liaison to the Governor's Chapter II Advisory Board, which
23 handles federal funds.

24 Additionally, I am now serving as a Commissioner to
25 the California Post Secondary Education Commission, representing
26 the State Board.

27 My goal as a State Board of Education member is to be
28

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1 a strong advocate for the children of this state, to help --
2 have the State Board serve as really that bully pulpit to speak
3 for kids. My personal desire is -- and a passion that I have --
4 is to work to see that the children within the primary grades,
5 or kindergarten through third grade, will get a strong, rigorous
6 curriculum. And hopefully, if we address this need as a state,
7 this will help us a great deal on the remedial activities down
8 the road.

9 So, I think California's a bell weather state. As
10 these things happen in California, so they happen in the nation.
11 And I'd like to be part of some very constructive and positive
12 effort to continue California in really a very strong sense of
13 accomplishment, and purpose, and progress for our kids.

14 CHAIRMAN ROBERTI: Thank you very much.

15 I've had a concern recently that much of education is
16 way too complex, both administration and finance. And in my own
17 school district, it's size.

18 The process of education, the decision-making
19 process, seems to be removed from the parents and the teachers,
20 but especially from parents and from communities. Anyone who
21 tries just gets lost in a maze of complexity that makes any
22 other agency of our government look simple.

23 Do you have any ideas on streamlining?

24 MS. LARSEN: Well, I share your concern. The
25 Education Code is far too complex and far too restrictive at
26 this point in time. Too many regulations.

27 I feel we really need to work diligently to establish
28

1 more local control and more flexibility within the individual
2 districts. Certainly there is such diversity in our state, from
3 San Diego or San Ysidro to the far northern borders, there are
4 differences in our demographics, in our diverse population and
5 all, and I think we need to leave it to the parents and the
6 community activists to help establish the pattern that their
7 school districts should go, certainly within the parameters of
8 strong educational directives.

9 The rigorous education, of course, must be first and
10 foremost, but there does need to be an opportunity for the local
11 people to have input into how their efforts are projected.

12 And I think your effort to look forth at the Los
13 Angeles Unified School District certainly is an appropriate one.
14 I don't know how it will all turn out, but it certainly needs to
15 have some review and some look-see. And I support you in that
16 effort.

17 CHAIRMAN ROBERTI: I was told yesterday in one of our
18 Code sections -- you talked about complexity of the Codes -- we
19 have a Code that, if you want to have a private sale to help
20 raise money for schools, you can get four waivers a year to do
21 that. And if you have the four waivers, you can have private
22 people help schools districts, and you can therefore have a food
23 sale for everything except popcorn.

24 Now, this is in our Code. I mean, just an example of
25 how ridiculously complex --

26 MS. LARSEN: I'm glad you said "ridiculously
27 complex."
28

1 CHAIRMAN ROBERTI: -- and unnecessary it's become.
2 The popcorn lobby, I didn't know we had one, but evidently at
3 one point in the legislative life, we had a popcorn lobby.

4 MS. LARSEN: Probably after the Sneeze Panel.

5 CHAIRMAN ROBERTI: That's right.

6 So, I want to work with you on that.

7 Any other questions of the nominee? Is there any
8 opposition in the audience?

9 Then do I hear a motion?

10 SENATOR BEVERLY: Move we recommend confirmation.

11 CHAIRMAN ROBERTI: Senator Beverly moves confirmation
12 to the Floor.

13 Secretary will call the roll.

14 SECRETARY WEBB: Senator Ayala.

15 SENATOR AYALA: Aye.

16 SECRETARY WEBB: Ayala Aye. Senator Beverly.

17 SENATOR BEVERLY: Aye.

18 SECRETARY WEBB: Beverly Aye. Senator Petris.

19 SENATOR PETRIS: Aye.

20 SECRETARY WEBB: Petris Aye. Senator Craven.
21 Senator Roberti.

22 CHAIRMAN ROBERTI: Aye.

23 SECRETARY WEBB: Roberti Aye.

24 CHAIRMAN ROBERTI: The vote is four to zero;
25 confirmation is recommended to the Floor.

26 Congratulations.

27 MS. LARSEN: Thank you very much, gentlemen.
28

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and the role of the accounting department in ensuring the integrity of the financial statements. It also highlights the need for regular audits and the importance of transparency in financial reporting.

2. The second part of the document focuses on the implementation of internal controls to prevent fraud and ensure the accuracy of financial data. It outlines the key components of a robust internal control system, including segregation of duties, authorization procedures, and regular monitoring and evaluation.

3. The third part of the document addresses the challenges faced by organizations in managing their financial resources effectively. It discusses the importance of budgeting and forecasting, and the role of the accounting department in providing accurate and timely financial information to management for decision-making.

4. The fourth part of the document explores the impact of technology on the accounting profession. It discusses the benefits of automation and the use of cloud-based accounting systems, as well as the need for ongoing training and development for accounting professionals to stay up-to-date with the latest technologies.

5. The fifth part of the document concludes by emphasizing the importance of ethical behavior in the accounting profession. It discusses the role of the accounting department in ensuring compliance with accounting standards and regulations, and the importance of maintaining the highest level of integrity and honesty in all financial reporting.

1 CHAIRMAN ROBERTI: Our next nominee is Frank Light,
2 Member of the State Board of Education.

3 We'll ask you the same question, and that is why you
4 feel you're qualified to assume this position?

5 MR. LIGHT: Senator, my background is -- I guess my
6 biggest tie to education is my four children who've come up
7 through the California system.

8 My youngest child had a learning disability, and we
9 were in Michigan for a short period of time, and we were told
10 that he was mentally handicapped and would never make it. And
11 through the great California Special Ed. system, he now drives a
12 bus and is independent in Pleasanton.

13 For that alone, I think I owe California education a
14 lot. And I feel very privileged to be a retired personnel that
15 has the time, and it does take a lot of time to serve on this
16 State Board of Education.

17 I've been a member of the Board of Regents of
18 California Lutheran University. I've been the organizing and
19 chair of a child -- preschool child development center church in
20 Fresno, one in Dublin, and now I'm very active in a preschool
21 child development center in San Diego. I have a lot of ties
22 with education and family and these personal experiences.

23 My business career has been, I started out in
24 financial management, and going into general executive
25 management. And I think this combination of love for the
26 children and the business augment, especially in today's crisis
27 that we have in fiscal management in schools, I have something
28

1 to offer. And I've been honored and privileged to be able to
2 lend this experience.

3 CHAIRMAN ROBERTI: Thank you, Mr. Light.

4 Senator Ayala, you have a question?

5 SENATOR AYALA: Yes.

6 Mr. Light, what, in your opinion, is the function of
7 the county schools? We have a superintendent of county schools.
8 I haven't served on a school board myself. I'm not sure how
9 that relationship takes place between the Superintendent of
10 Schools and the local school boards.

11 MR. LIGHT: Senator, I'm not so sure I can answer
12 that directly, but I can give you a broad opinion that, as I'm
13 trying to learn, and going back on my business experience, I
14 look at the child, who's the person that we're really trying to
15 educate, and I almost always go back to Washington to the
16 Secretary of Education, or whatever, and I count all the heads
17 between him and the child, and I wonder why we have all these.

18 Going back to the earlier conversation about looking
19 at the L.A. Unified School District and its vastness, I guess my
20 feeling is that bigness and many, many tiers in education is
21 bad. I just have that gut feeling.

22 SENATOR AYALA: What is the function of the county
23 superintendent of schools?

24 MR. LIGHT: The function as it now exists, as I
25 understand it, is a super service structure over top of the
26 districts within their county. And now there's moves to develop
27 regional super structures over the counties, somewhere in
28

1 between the state structure, and these are things that trouble
2 me.

3 I'm not directly answering your question, but I'm
4 challenging, sometimes, the need for that structure.

5 SENATOR AYALA: Do you feel that it's an additional
6 bureaucracy we have that we could streamline and perhaps even
7 minimize it?

8 We have one in every county, and I don't really know
9 what they do, to be frank with you. The Superintendent is
10 elected by the people at large, and the board members are
11 appointed -- no, they run for board position, too. But we also
12 have local governing boards.

13 MR. LIGHT: Yes.

14 SENATOR AYALA: And I'm not sure how that really
15 functions.

16 MR. LIGHT: I guess I can't tell you exactly how it
17 functions, either. But I think now that we're taking a fresh
18 look at the whole structure, these things have to be challenged.
19 How logical is it to have these super structures?

20 We talked about these mandatory -- these mandates
21 that come down, and as these mandates trickle down through these
22 various super structures and you go visit a school, and you see
23 a principal just hog-tied with all the reports and all the
24 special petitions, and all the things that she has to do, and
25 you wonder if she really has any time to manage the kids.

26 So, I guess it's that frustration of that super
27 structure and all the mandates that is troublesome.
28

1 SENATOR AYALA: I just wonder if we need that in
2 between, you know, the state Superintendent of Instruction, and
3 the local boards. We have like a regional government there, and
4 I don't really understand why we need it.

5 MR. LIGHT: Oh, a few years ago I had the guts to say
6 let's wipe it all out, but I think you have to be a little
7 careful on how you address these things. But I think that
8 particularly in view of the problems we have now, thinking about
9 quality of education, and thinking about restriction of
10 resources, we really have to examine the whole structure.

11 SENATOR AYALA: Thank you.

12 CHAIRMAN ROBERTI: Any other questions?

13 Is there any opposition to Mr. Light to the State
14 Board of Education?

15 Do I hear a motion?

16 SENATOR BEVERLY: Move we recommend confirmation.

17 CHAIRMAN ROBERTI: Senator Beverly moves
18 recommendation to the Floor.

19 Secretary will call the roll.

20 SECRETARY WEBB: Senator Ayala.

21 SENATOR AYALA: Aye.

22 SECRETARY WEBB: Ayala Aye. Senator Beverly.

23 SENATOR BEVERLY: Aye.

24 SECRETARY WEBB: Beverly Aye. Senator Petris.

25 SENATOR PETRIS: Aye.

26 SECRETARY WEBB: Petris Aye. Senator Craven.
27 Senator Roberti.
28

1 CHAIRMAN ROBERTI: Aye.

2 SECRETARY WEBB: Roberti Aye.

3 CHAIRMAN ROBERTI: The vote is four to zero;
4 confirmation is recommended to the Floor.

5 Congratulations.

6 MR. LIGHT: Thank you, Senator.

7 CHAIRMAN ROBERTI: The next appointment is that of
8 Irene Cheng, Member of the State Board of Education, the student
9 member.

10 Ms. Cheng, we'll ask you what we ask all the
11 Governor's appointees, that is why you feel you're qualified to
12 assume this position?

13 MS. CHENG: Well, I feel I'm qualified to serve as
14 the student member on the State Board mainly for three reasons.

15 First of all is the unique selection process which I
16 went through in order to get to this point. In order to be
17 appointed, I was required to submit a written application,
18 including transcripts, essays, and written recommendations.
19 Went through two interview with the State Board and with the
20 Governor's Office. And most significant to me, I was elected by
21 my peers by the district school board representatives from
22 around the state.

23 The second reason I feel I'm qualified to serve in
24 this position is because of my past record of service to my
25 school and community. I have a broad range of activities behind
26 me which I've participated in throughout my four years of high
27 school, and which I feel I've been able to draw upon in dealing
28

1 with some of the issues that come before the Board.

2 And last of all, I feel I'm qualified because of my
3 personal characteristics. One of the qualities which I've --
4 I've utilized most, I feel, is the fact that I've taken my
5 position as student Board member these past six months very
6 seriously, and I've sought to fulfill my responsibilities as a
7 representative of all students in California by weighing each
8 decision that I vote on very carefully, and taking into
9 consideration what's best for the students of California.

10 CHAIRMAN ROBERTI: Very good, very well put.

11 Where are you currently studying?

12 MS. CHENG: I am currently a senior at Mills High
13 School in Millbrae.

14 CHAIRMAN ROBERTI: Is there any opposition?

15 Do I hear a motion?

16 SENATOR BEVERLY: Move we recommend confirmation.

17 CHAIRMAN ROBERTI: Senator Beverly moves confirmation
18 be recommended to the Floor.

19 Secretary will call the roll.

20 SECRETARY WEBB: Senator Ayala.

21 SENATOR AYALA: Aye.

22 SECRETARY WEBB: Ayala Aye. Senator Beverly.

23 SENATOR BEVERLY: Aye.

24 SECRETARY WEBB: Beverly Aye. Senator Petris.

25 SENATOR PETRIS: Aye.

26 SECRETARY WEBB: Petris Aye. Senator Craven.

27 Senator Roberti.

28

1 CHAIRMAN ROBERTI: Aye.

2 SECRETARY WEBB: Roberti Aye.

3 CHAIRMAN ROBERTI: The vote is four to zero;
4 confirmation is recommended to the Floor.

5 Congratulations.

6 Now we have the appointment of S. Stephen Nakashima,
7 Member of the Board of Regents of the University of California.

8 Mr. Nakashima, we will ask you what we ask all the
9 Governor's appointees, and that is why you feel you're qualified
10 to maintain this position as a Member of the Board of Regents?

11 MR. NAKASHIMA: Thank you.

12 Members of the Committee, perhaps a little
13 information on my background will help you understand my
14 position and the reason why I feel that I can contribute to the
15 people of the State of California as a Regent of the University
16 of California system.

17 I was born and raised in Fresno County, and today I
18 asked a friend, in those days, half of my friends were Mexicans.
19 But today, I'm afraid I might offend somebody if I were to say
20 "Mexican." What is it: Mexicans, or Chicanos, or Hispanics, or
21 Latinos? But in my days in growing in Fresno County, my friends
22 were Mexican. I worked with them in the fields, picking
23 tomatoes, peaches, grapes, and I can pick grapes as well as
24 anybody can.

25 After attending the K through 12 school system in
26 Reedly, I went to the junior college that was known at that time
27 as Reedly Junior College. I graduated from Reedly Junior
28

1 College, but my education was interrupted by World War II . The
2 whole family was taken to a camp, relocation center in Poston,
3 Arizona, which was located on a Navajo Indian reservation there
4 near the Colorado River.

5 I was there for one year. During my one year there,
6 I taught a sixth grade class and a course in bookkeeping.

7 After one year, I was able to relocate to Cleveland,
8 where I worked for a year, year and a half, at which time I
9 attended college at night. After that, I went into the
10 military, then after the military, I went to the University of
11 California at Berkeley.

12 My parents had told me that they could not give me
13 any help, but they would not deny me the opportunity of an
14 education, but I had to obtain it myself.

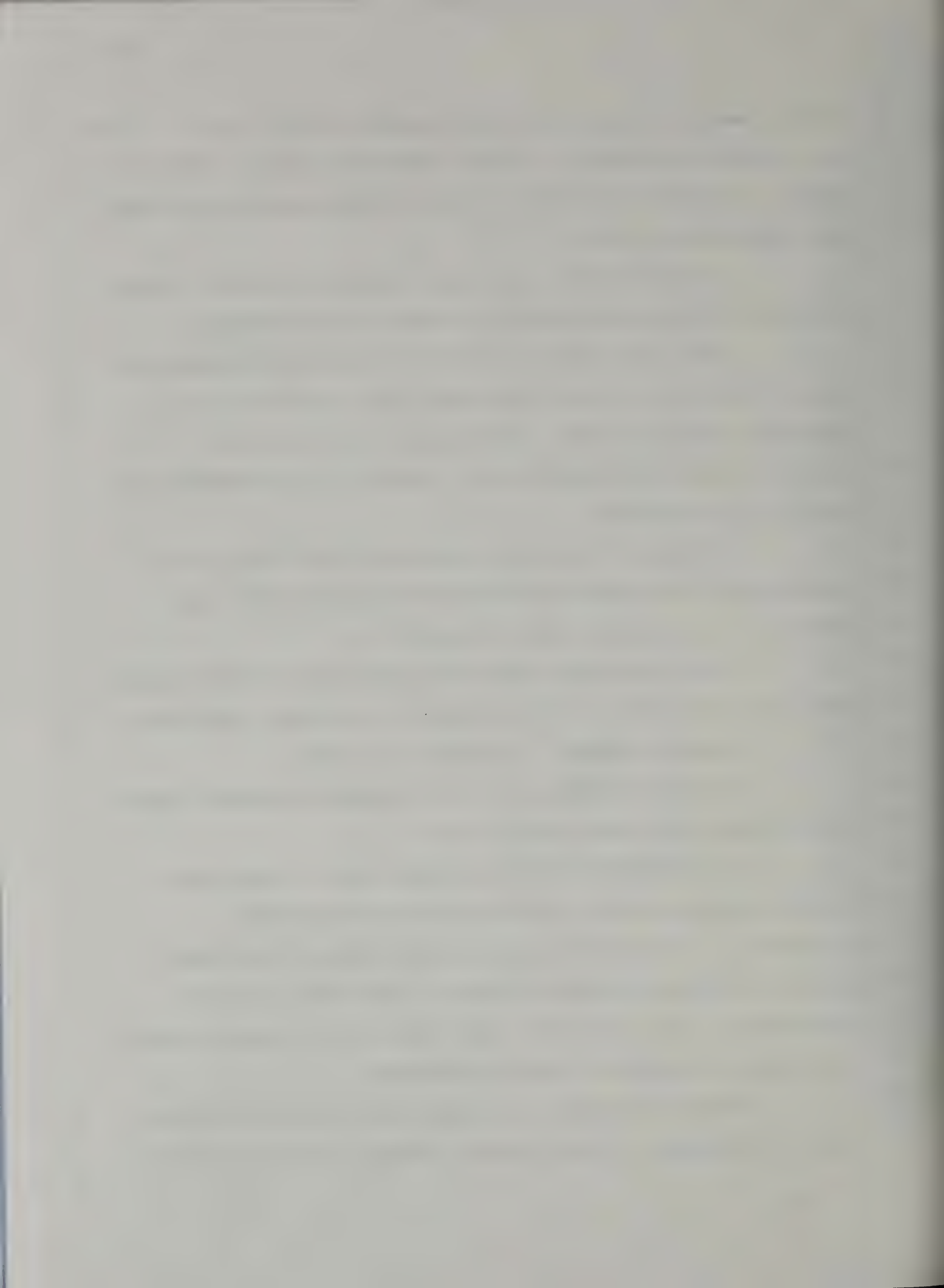
15 After graduating from the University of California in
16 1948, I was accepted at the Law School at Berkeley, Boalt Hall.

17 SENATOR MORGAN: I'm sorry to be late.

18 CHAIRMAN ROBERTI: You can continue, then we'll ask
19 Senator Morgan what she thinks of you.

20 MR. NAKASHIMA: While at Boalt Hall, I was doing
21 teaching assistant work at the School of Business and
22 Accounting. I was told in my second year that if they knew I
23 had to work my way through law school, they would not have
24 accepted me. I was very happy that they had not found out that
25 I was going to work as a teaching assistant.

26 After graduating from Boalt Hall -- oh, up to this
27 time, it's important to note that my parents were unable to do
28



1 much in the way of economic matters because of the Alien Land
2 Law which prevented them from acquiring real property, and the
3 fact that they could not obtain citizenship. Those things have
4 changed, were changed in the early '50s.

5 But this makes me understand the problems of
6 minorities. I have told friends that it's very difficult for a
7 person to understand the problems of a minority unless that
8 person is a minority himself.

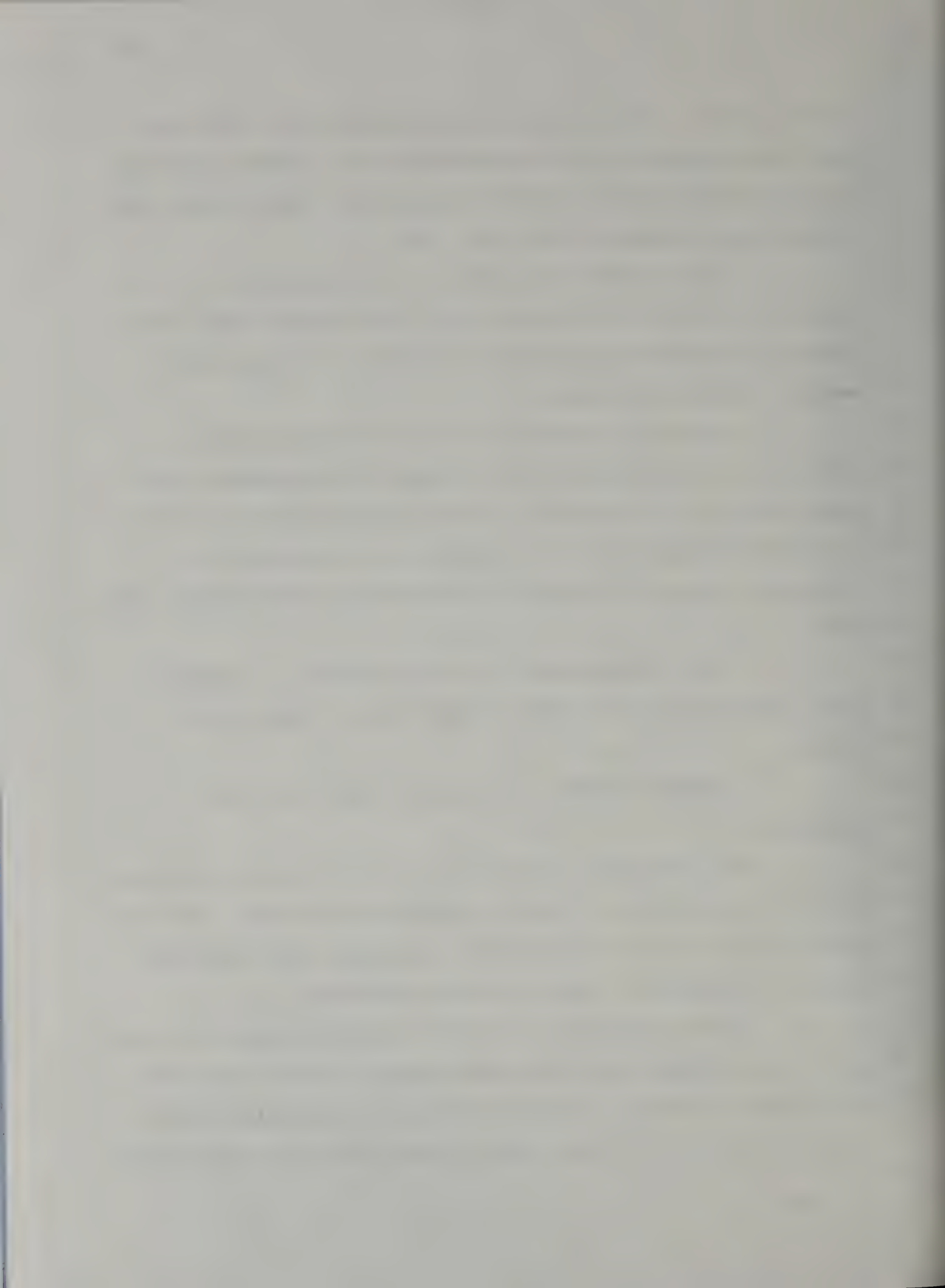
9 And so the background as far as my education is
10 concerned is something that is a product of the schools, the
11 public schools of California. I would never have been able to
12 go through college had it not been for the University of
13 California, because I was able to work for at least my room and
14 board.

15 I got married when I was in law school. My wife,
16 who's sitting behind me, Sally, worked while I was in law
17 school.

18 CHAIRMAN ROBERTI: It's good to see you, Mrs.
19 Nakashima.

20 MR. NAKASHIMA: And so, she, as the other wives said,
21 she should get a P.H.T. That's "Putting Him Through". And I'm
22 very grateful for the fact that the University system existed,
23 making it possible for me to obtain my education.

24 After law school, I received a job in Japan for three
25 years with Goodyear Tire and Rubber Company. Then I came back
26 to California because I wanted my children to be raised in the
27 United States. And we have lived in San Jose for -- since 1955.
28



1 I feel that my background and the fact that among --
2 with my four children and myself, we have seven degrees from the
3 University of California system. We have -- over 24 of the 29
4 years of college has been with the University of California
5 system. I am the product of immigrant parents, but I am also a
6 product of the University of California system.

7 And I asked my friends, is it any wonder that I have
8 so much pride and feelings for the University of California
9 system? I want to be -- this system to be the way other
10 children can elevate themselves. There's -- there's nothing
11 that would have made it possible for me to be where I am without
12 the University of California system.

13 I was appointed to fill the unexpired term of Robert
14 Noyce, who was a Regent up to 1989. And so, I have served for
15 approximately three years as a Regent, and I was re-appointed
16 last March.

17 And I respectfully request that you ask me questions
18 as to my background, or my qualifications, or anything that
19 you'd like to ask.

20 At this time, Senator Becky Morgan is a very personal
21 and good friend of mine, and I'd like to have her -- I had asked
22 her to come and introduce me, and to speak on my behalf.

23 CHAIRMAN ROBERTI: Thank you very much, Mr.
24 Nakashima.

25 Senator Morgan.

26 SENATOR MORGAN: Thank you, and I apologize for not
27 being here for the introduction.
28

1 Mr. Nakashima certainly is one of the most esteemed
2 constituents in my district. Well known and highly respected in
3 San Jose business and legal communities, both for his
4 professionalism and for his contributions to the communities.

5 Steve is a man who has suffered at the hands of the
6 federal government, and been relocated, and yet come back and
7 served his community, served in World War II, and then come back
8 without bitterness to serve his community again.

9 I think his experiences, some of which he has
10 explained to you, show the empathy that he can bring for the
11 other students of the University of California, and his
12 commitment to the diversity of California, and to making sure
13 that students and young people from all races and ethnicities
14 are in fact given opportunities.

15 I think that's what we've been talking about up here.
16 It's what I'm committed to, and I think that there would be no
17 finer representative on the Board of Regents, not only for the
18 University of California, but for the State of California, than
19 Steve Nakashima.

20 I think rather than my saying more than the sincerity
21 of my commitment to his candidacy, this would be an opportunity
22 to let him respond to any questions.

23 CHAIRMAN ROBERTI: Yes, thank you, Senator.

24 We often ask any Senator who is interested to join
25 us. Senator Kopp wishes to join us in the confirmation process.

26 First, do any Members of the Committee have a
27 question? Senator Petris.
28

1 SENATOR PETRIS: I might say that with your record as
2 a U.C. student, and all the family members, that's very
3 commendable, particularly considering all the circumstances that
4 we lived through, those of my generation did and know about.

5 My first question is, if you were in those same
6 circumstances today, meaning financial, do you think you could
7 work your way through school again with the upcoming fees
8 approaching \$3600 a year starting in September?

9 MR. NAKASHIMA: Senator Petris, in speaking to
10 students who call me about the fee increases, I tell them that
11 I'm -- I believe because when I went to Cal., my student
12 registration fees were \$37.50 per semester. They can't believe
13 it. They just go, "Wow!"

14 Well, today it's \$3,000 per year. You know, that is
15 difficult for me to understand. Even if I were to work all
16 summer long, it would be hard for me to come up with the \$3,000.

17 I don't know what to recommend to them, but their
18 concerns are justified. Their anger is justified.

19 SENATOR PETRIS: But the fees still continue to go
20 up that the Regents have imposed.

21 MR. NAKASHIMA: I don't know what to tell you, other
22 than to state that due to the budget constraints, you know,
23 we've had \$225 million knocked off the 1992-93 budget as
24 compared to the year before, and the question is, where do we
25 get the money?

26 Now, each dollar that is charged the student as an
27 increase in fees, about one-third, 30%-33%, is set aside for
28

1 student aid to help the students from poor families, or
2 backgrounds, or students who have needs. So, that's helpful,
3 but it does not resolve the problem.

4 I don't know where to turn, other than to say that we
5 should try to get the Legislature to at least look at it much
6 more closely.

7 SENATOR PETRIS: How about the Governor?

8 MR. NAKASHIMA: I think that's where the first step
9 should start.

10 SENATOR PETRIS: I think both the Legislature and the
11 Governor need to address this.

12 There's been a lot of criticism in recent years under
13 governors of both parties, so it's not a partisan attack -- the
14 latest comes from Common Cause -- that too often the Governor's
15 appointees come in by virtue of their political activity and the
16 fact they've contributed a lot of money to the campaign of the
17 Governor.

18 You were appointed by both Deukmejian and Wilson.

19 MR. NAKASHIMA: Yes.

20 SENATOR PETRIS: So you have good standing with both
21 of those Governors.

22 MR. NAKASHIMA: Yes.

23 SENATOR PETRIS: It seems to me that, assuming that
24 that's the case, we have reports on how much each one of the
25 Regents contributed to the campaigns.

26 MR. NAKASHIMA: Yes.

27 SENATOR PETRIS: I personally don't have any problem
28

1 with that. It looks bad on the outside. It looks like, well,
2 they're just a bunch of political hacks, and they're getting
3 appointed.

4 I think each one has to be considered on the merits.
5 But I think that could be turned to good advantage. If you're
6 close enough to the Governor by virtue of your partisan activity
7 in the Republican Party, which has been extensive, and your
8 contributions, it seems to me you ought to be able to get his
9 ear and tell him what you tell us, that those fees are too high.
10 That you don't know what to tell the students when they ask you,
11 "How are we going to make it?" And find some other way to fund
12 the schools without dumping it every year, more and more, on the
13 backs of students.

14 There are a lot of us in the Legislature who are
15 opposed to that. And yet, we don't see any other way out
16 because alternate sources of income have been rejected by this
17 Governor. The only obvious source remaining is more taxes.
18 Nobody likes to vote for an increase in taxes.

19 But I think if the Regents went to him and said,
20 "Look, we recommend this." They come from the business
21 community, they come from the upper income community. They have
22 a lot of friends out there. You in your case, you have clients
23 among your law practice; you have clients in your CPA practice.
24 And I'll bet you, you could be very influential with the people
25 that are close to you in re-visiting this problem and saying,
26 "Hey, maybe for a while we ought to try to persuade the Governor
27 to rely a little more on taxes and less on student fees."
28

1 It's not only that the fees have gone up, but the
2 fact that part of the fee is devoted to helping the poorer
3 student is off-set by the 15 percent cut in Cal. grants. I
4 don't know if it's off-set exactly mathematically. Senator
5 Morgan can tell us that. She knows that stuff by heart. She's
6 very well informed on that.

7 But my point is, we give with one hand, and we take
8 away with the other.

9 We are shortchanging, and have been for the last few
10 years, mostly due to the recession. I mean, if these were
11 normal times, we wouldn't even be talking about it. We are
12 shortchanging an entire generation, and it's very detrimental to
13 the country, to the nation as a whole, which has looked to
14 California for so many years as the leading public university in
15 the whole country, that graduates these engineers, and
16 scientists, and creates Nobel Prize winners in all kinds of
17 fields.

18 Well, that's not a question. That's just a thinking
19 out loud as to some other sources.

20 It seems to me that the Regents, who are closely
21 associated with the Governor, may have more influence -- if you
22 agree that we ought to look to that source, as well as all these
23 other sources -- than Members of the Legislature would have.

24 I would urge you and the other Regents to think about
25 that. And if you agree that we ought to be pursuing these other
26 avenues, to talk to the Governor.

27 I don't know, maybe he's so busy, and you're so busy
28

1 you've never talked to him since you got appointed. But by
2 virtue of your acquaintance with him, and closeness, and so
3 forth, you'd have a better change than most other people.

4 Have you given that any thought?

5 MR. NAKASHIMA: Yes, Senator.

6 Much thought has been given to the questions of how
7 we could develop other sources of funds. There's one part of
8 the tax part that I don't particularly agree with the Governor,
9 and I will state at this time that I will definitely write him a
10 letter with a copy to you, and I'll express my concerns.
11 Because to me, I think the education of the young people is
12 going to determine the future of our country, our state, and the
13 people of the State of California. And if we don't do something
14 about making it available to them at this particular time, we're
15 going to pay for it tremendously in the future. And I
16 definitely agree with all that you stated.

17 Personally, perhaps it might be heresy, as far as I'm
18 concerned, being a Republican, but I don't mind paying the
19 taxes. And the reason for it is this: that I am here and in
20 the position I'm in because taxes paid for my education way back
21 40-50 years ago. And personally, this is my personal feelings,
22 and I would not object to any type of tax.

23 SENATOR PETRIS: Well, I think the Governor needs to
24 know that. I mean --

25 MR. NAKASHIMA: I will let him know.

26 SENATOR PETRIS: -- after all, he is a political
27 leader. And if he doesn't see anybody behind him supporting a
28

1 direction, he's not going to go there. I wouldn't either. None
2 of us politicians would. We don't like to be standing out there
3 all by ourselves.

4 But if there's enough opinion among the circles that
5 he respects and with whom he is associated that says, "Go for
6 it, Governor," it helps him tremendously.

7 I don't think it's fair. I'm a frequent critic of
8 the Governor, but I admire him and I respect him.

9 I don't expect him to be out there all by himself.
10 And he got burned very badly in '91, after being a real hero in
11 '90 in his first term. When did it start? I guess it started
12 in '91. In his first term, he was a real hero. He faced \$14
13 billion deficit, none of his doing, and he sat down with the
14 Democratic leadership, and they agreed to a program that says,
15 "Look, we'll make up half of it with cuts." The Democrats said
16 that's very painful for us, but we'll do it, if you'll do the
17 other half with a tax increase. And to his great credit, he did
18 it.

19 Well, his own party turns on him the very next year
20 and says, "We're not going to support you any more for
21 re-election." So, he said no more tax talk. Well, I can
22 understand that. Regardless of whether I or the next person
23 would do the same thing, that's understandable.

24 That's why he needs the support of people like you,
25 other members of the Regents, and others who are active out
26 there, to say, "Governor, let's re-open that door, and let's
27 re-visit it. And I'm willing to pay my share, and these people
28

1 are, too," and re-address that. And create a climate for him
2 that makes it more palatable.

3 I mean, if you think that's the right way to go. I'm
4 not trying to impose my view on you, but do you understand what
5 I'm saying?

6 MR. NAKASHIMA: Yes. I agree with you.

7 I will say that it's unfortunate that politics makes
8 it necessary at times to, for political expediency purposes, to
9 put the burden on the shoulders of the young people as far as
10 education is concerned.

11 And I would do everything in my power to try to
12 alleviate some of the burden that's been imposed on the students
13 up to this time, and which are anticipated in the future,
14 depending on the budget problems.

15 SENATOR PETRIS: I would urge you to do that, and I'm
16 happy to hear you say it.

17 Now, the talk always goes back to taxes.

18 MR. NAKASHIMA: That's right.

19 SENATOR PETRIS: As I said, nobody likes to vote for
20 taxes. I'm willing to vote for them, especially in my last
21 year. I'm not up for re-election any more, so it's easier for
22 me.

23 But at any rate, the fact is that when he surveyed
24 the field to find all possible sources, he rejected taxes. And
25 I understand why.

26 But he didn't eliminate taxes. He taxed the
27 students. The gigantic fee increases in the last two years are
28

1 nothing more than a tax on the students.

2 MR. NAKASHIMA: A tax on their education.

3 SENATOR PETRIS: That's right; that's right.

4 So, we can't say, "Well, we solved the problem
5 without raising taxes." There are a lot of mothers and fathers
6 out there who are having a very tough time meeting the bills for
7 their kids who are in U.C. or Cal. State, even in the community
8 colleges now we're rapping them very hard.

9 Well, I had some other questions, but I think I've
10 taken a little too long. I'll yield to the others. Maybe I'll
11 come back to another question later.

12 Thank you.

13 CHAIRMAN ROBERTI: Senator Ayala.

14 SENATOR AYALA: Mr. Nakashima, I didn't quite
15 understand your original statements. You said in your day,
16 there was no Chicanos, or Hispanics, or Latinos; they were just
17 Mexicans.

18 You didn't see any Mexican-Americans around?

19 MR. NAKASHIMA: Well, we were called Japanese, and
20 then later on the term Japanese-Americans came along. And then
21 I discussed this with a friend recently, and the term -- we
22 discussed this. I asked the question, and we said, well, I knew
23 them as Mexicans, and they knew me as a Japanese. And then it
24 came to Mexican-Americans, with MAPA being a product of that
25 term, Mexican-American Political Action Committee. And yes, but
26 most of us were too lazy, I guess, to put the term "American" on
27 there.
28

1 SENATOR AYALA: I'm of your era, so there were no
2 hyphenated Americans in those days.

3 MR. NAKASHIMA: That's right.

4 SENATOR AYALA: Okay.

5 I guess my next question is that student fees at the
6 university went up 24 percent last fall, and 40 percent the year
7 before.

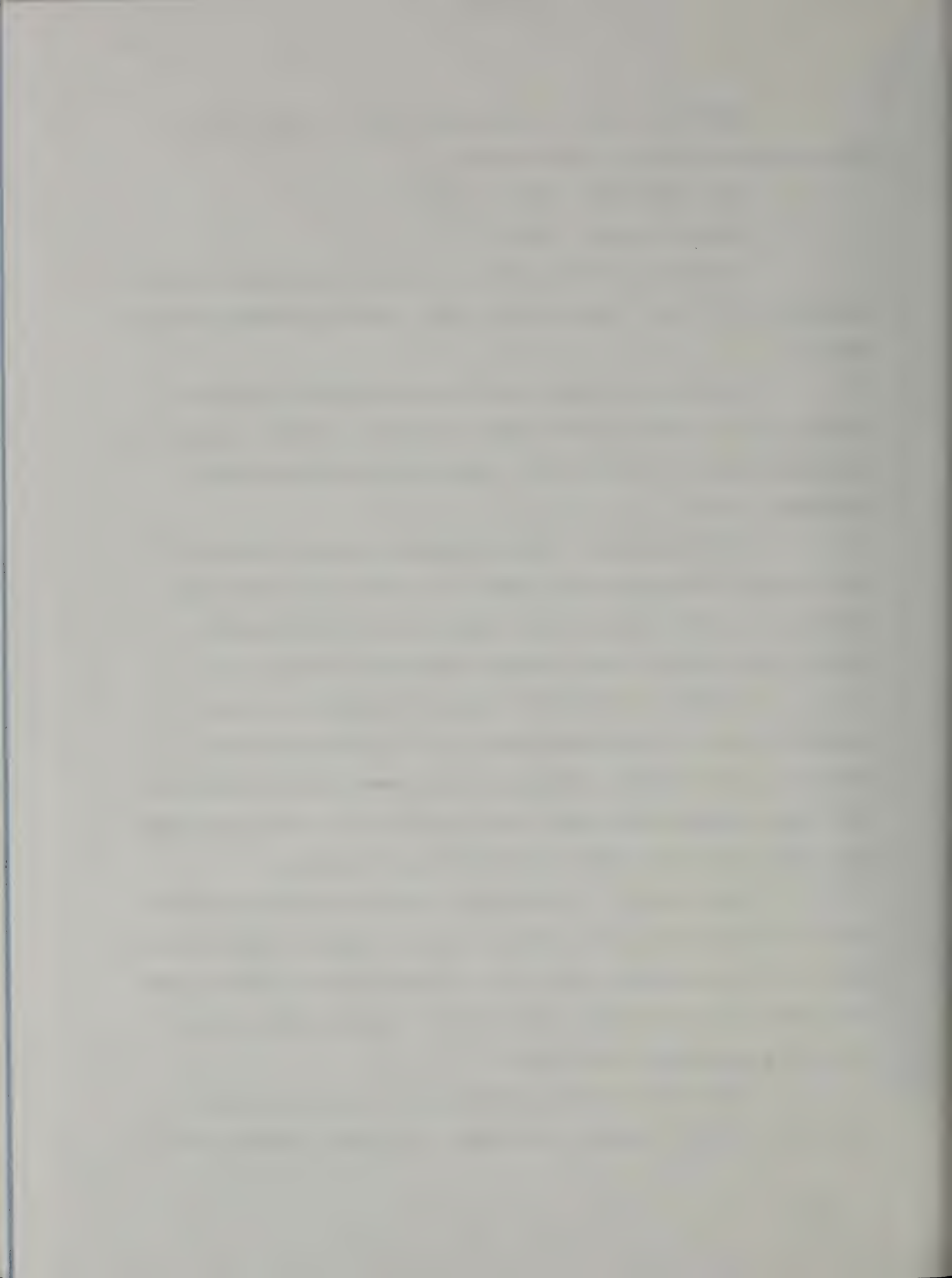
8 How can you justify giving the retiring President
9 Gardner such a shocking retirement package? How can you justify
10 increasing fees and giving this gentleman a very generous
11 retirement plan?

12 MR. NAKASHIMA: The retirement package referred to by
13 you included funds which had been set aside under what they
14 referred to under a program of contractual relationship as
15 N-DIP, N dash D-I-P, which means nondeferred income plan.

16 In the mid-'80s, the Internal Revenue Code was
17 amended to make it disadvantageous for retirement programs, so
18 they set up this N-DIP, nondeferred retirement income plan, to
19 set aside so much money each year which would be the equivalent
20 of a raise that that person should really receive.

21 This was all -- the amounts were all established by a
22 study by a consulting firm, Towers Perrin. These funds were set
23 aside with the agreement that the individual had to be employed
24 five years in order to be fully vested. And so each year, a
25 separate program was established.

26 And of the amount of money that was paid out to
27 President Gardner upon his retirement, there was accumulated the
28



1 total sum from these sources with six contracts, an amount of
2 approximately four hundred and sixty some-odd thousand dollars.
3 This had already been set aside for him by contractual
4 relationship.

5 In fact, at one of these meetings at the time that
6 the package was discussed, Speaker Brown appeared at the Regent
7 meeting, and he reiterated the fact that these were contracts,
8 and that he was -- that President Gardner was entitled to it.

9 The balance of it comes from other programs, the
10 retirement packages that are normal under the outside the N-DIP
11 program. And in order to make this available, there had to be
12 certain waivers by the Board. In order to make sure that
13 everything was proper, the firm of Morrison and Forester, I
14 believe, was engaged to give an opinion. And they gave us a
15 28-page opinion.

16 It was very difficult for an individual to know all
17 the facets and all the details of everything. You have to
18 depend upon professionals, like Towers and Perrin consulting
19 firm, and Morrison and Forester, the law firm. And all of these
20 reports indicated that these were proper.

21 In retrospect, perhaps, I think, the method in which
22 it was done, the method in which it was made public, and the way
23 it was treated was probably not a good way. And I think that if
24 everything had been done with full explanation, I don't think
25 that we would have had the uproar that we had.

26 SENATOR AYALA: Given the economic conditions of the
27 state today, particularly in education, don't you think that you
28

The first part of the paper discusses the importance of the study and the objectives of the research. It also outlines the scope of the study and the limitations of the research.

The second part of the paper discusses the methodology used in the study. It includes a description of the data collection methods and the statistical analysis techniques used to analyze the data.

The third part of the paper discusses the results of the study. It includes a description of the findings and a discussion of the implications of the results for the field of study.

The fourth part of the paper discusses the conclusions of the study. It includes a summary of the findings and a discussion of the implications of the results for the field of study.

The fifth part of the paper discusses the limitations of the study. It includes a discussion of the strengths and weaknesses of the study and a discussion of the implications of the results for the field of study.

The sixth part of the paper discusses the future research. It includes a discussion of the areas for further research and a discussion of the implications of the results for the field of study.

1 folks got carried away a little bit on that issue?

2 You have a method you used. Is this method still in
3 place so that the next President will also be given those
4 generous --

5 MR. NAKASHIMA: Well, all of these programs are being
6 reviewed right now. And if you have an agreement with an
7 individual, there's very little you can do about trying to
8 cancel them. You can stop them, the future application of those
9 programs, but the new President that we have is a real hands-on
10 President. And he has named several committees to check into
11 various phases of all of the management of the University,
12 including academic, and finances, and fees, management, and so
13 forth.

14 And I think that, given the -- he's been President
15 now since October 1st of 1992, and he, according to my feelings
16 and the discussions I have had with others, he is seemingly on
17 the right track in trying to correct the situation that caused
18 the problems in the past.

19 SENATOR AYALA: All these items that were included in
20 the retirement package came from set aside funds, you say.

21 MR. NAKASHIMA: That's right.

22 SENATOR AYALA: But they were still tax dollars;
23 weren't they?

24 MR. NAKASHIMA: Pardon?

25 SENATOR AYALA: Were they tax dollars?

26 MR. NAKASHIMA: No.

27 SENATOR AYALA: They were not tax dollars?
28

1 MR. NAKASHIMA: No, no.

2 SENATOR AYALA: Where did these funds come from?

3 MR. NAKASHIMA: A retirement fund.

4 SENATOR AYALA: From the retirement funds.

5 MR. NAKASHIMA: Yes.

6 SENATOR MORGAN: Mr. Chairman, may I comment?

7 CHAIRMAN ROBERTI: Yes, Senator.

8 SENATOR MORGAN: At the time that this issue came up,

9 I did call Mr. Nakashima as somebody that I trusted on the Board
10 of Regents, because I, too, was concerned. And perhaps this
11 shows that although these are political appointments, they're
12 not political people that get the job and perhaps aren't as
13 sensitive as we need to be as politicians. They were doing a
14 job.

15 There was money, as I understood it at the time, that
16 had come through investments that the University has made that
17 comes from many sources, including alumni giving, and it's much
18 like an individual having an annuity or buying a life insurance
19 with incomes due, that in a business-like fashion, the Regents
20 had invested money on behalf of the President and had signed a
21 contract. And so that they felt that, you know, the contract
22 needed to be honored or it would be -- there would be an even
23 greater problem.

24 So, I was convinced, after my conversation with him,
25 that they had behaved in a business-like manner, and had in fact
26 not used the general fund dollars that we had provided through
27 the budget, but had used other funds available to the
28

The first part of the paper discusses the importance of the study and the objectives of the research. It then proceeds to a literature review, followed by a description of the methodology used in the study. The results of the study are presented in the next section, followed by a discussion of the findings and their implications. The paper concludes with a summary of the main points and a list of references.

The study was conducted in a laboratory setting, and the results were compared with those of previous studies. The findings of the study are consistent with those of previous studies, and they provide new insights into the phenomenon being studied. The implications of the study are discussed in detail, and the authors conclude that the study has contributed to the understanding of the phenomenon being studied.

The authors would like to thank the following people for their assistance in the study: [names]. The study was supported by the following grants: [grant numbers]. The authors declare that they have no conflicts of interest.

1 University.

2 If I remember it correctly --

3 SENATOR AYALA: Senator Morgan, could they have used
4 these funds for other activities? Are these designed just for
5 that purpose? Can they use them for anything else?

6 MR. NAKASHIMA: No.

7 SENATOR MORGAN: They can use them for many things.

8 SENATOR AYALA: Let me ask you again. Would this
9 type of thing happen again with the way you are running the
10 retirement plan for the --

11 MR. NAKASHIMA: I don't think so, because I think all
12 the programs are being reviewed, and they will be changed.

13 But there have been some N-DIPs for other officers,
14 but they don't amount to a large amount.

15 SENATOR AYALA: If they're not used for this purpose,
16 those funds, what else can they be used for?

17 MR. NAKASHIMA: Just for retirement.

18 SENATOR AYALA: That's it?

19 MR. NAKASHIMA: Unless the individual does something
20 to forfeit his rights to it.

21 SENATOR AYALA: Thank you.

22 CHAIRMAN ROBERTI: Senator Kopp.

23 SENATOR KOPP: Thank you, Mr. Chairman and thank you,
24 Committee Members, for giving me an opportunity to participate
25 in the hearing.

26 Before I ask Mr. Nakashima some questions, let me
27 state for the record that I am reasonably certain the source of
28

1 those funds is manifold, and I trust that the reporter reported
2 Senator Morgan's accurate statement that those funds could, in
3 large part if not completely, be used for many purposes. This
4 happens to be one of them.

5 Mr. Nakashima, I attended the meeting of the Regents
6 on April 20 of 1992. And together with many others, I made a
7 statement.

8 But what I'm particularly interested in is your
9 statement at the time, and let me refresh your memory with
10 respect to a statement by one of your colleagues, Regent
11 Jeremiah Hallisey, who had prepared a six or seven page
12 document.

13 Do you remember that document that was distributed to
14 all the Regents?

15 MR. NAKASHIMA: I remember some documents that he did
16 distribute.

17 SENATOR KOPP: All right.

18 Mr. Hallisey, utilizing that document, and this is
19 for the benefit of the Members of the Committee, stated the
20 following in pertinent part after a report had been made by the
21 Chairman of the Finance Committee, Regent Williams, justifying
22 the money that was conferred by action of the Regents a month
23 before on the voluntarily retiring President of the University
24 of California, Mr. Gardner.

25 Regent Hallisey said, and I quote from the transcript
26 of that April 20, 1992 meeting:

27 "The original charge of the
28

1 Subcommittee on Officers' Salaries when it
2 was created in 1954 states it was '... to
3 study the subject of persons in the
4 University who have been overlooked and
5 whose salaries had not properly been
6 adjusted.'

7 "I would suggest that we have come a
8 very, very, very long way from that
9 original charge when we are awarding a
10 severance package of some \$1.2 million and
11 \$126,000 a year for life that begins, not
12 like the rest of the working stiff in the
13 audience, at age 65, but at age 60, and it
14 is fully indexed for inflation."

15 Then Mr. Hallisey continues by stating:

16 "President Gardner is going on to
17 another job that he refused to disclose
18 the salary -- I can only assume that it's
19 several hundred thousand dollars a year --
20 at the Hewlett Foundation. Another man
21 was in a similar situation, Robert
22 Stevens, the Chancellor at Santa Cruz. He
23 came to Mr. Brady ..."

24 And "Mr. Brady" refers to Ronald Brady, who is Vice President of
25 the University of California.

26 "He came to Mr. Brady. He asked for a
27 change in the vesting date."
28

The first part of the paper discusses the importance of the study of the history of the English language. It is argued that a knowledge of the history of the language is essential for a full understanding of the language in its present state. The second part of the paper is devoted to a discussion of the various theories of the origin of the English language. It is shown that the most plausible theory is that the English language is a mixture of the languages of the various peoples who have lived in the British Isles. The third part of the paper is devoted to a discussion of the various theories of the development of the English language. It is shown that the most plausible theory is that the English language has developed from a common ancestor language which was spoken by the various peoples who lived in the British Isles. The fourth part of the paper is devoted to a discussion of the various theories of the classification of the English language. It is shown that the most plausible theory is that the English language is a member of the Indo-European family of languages.

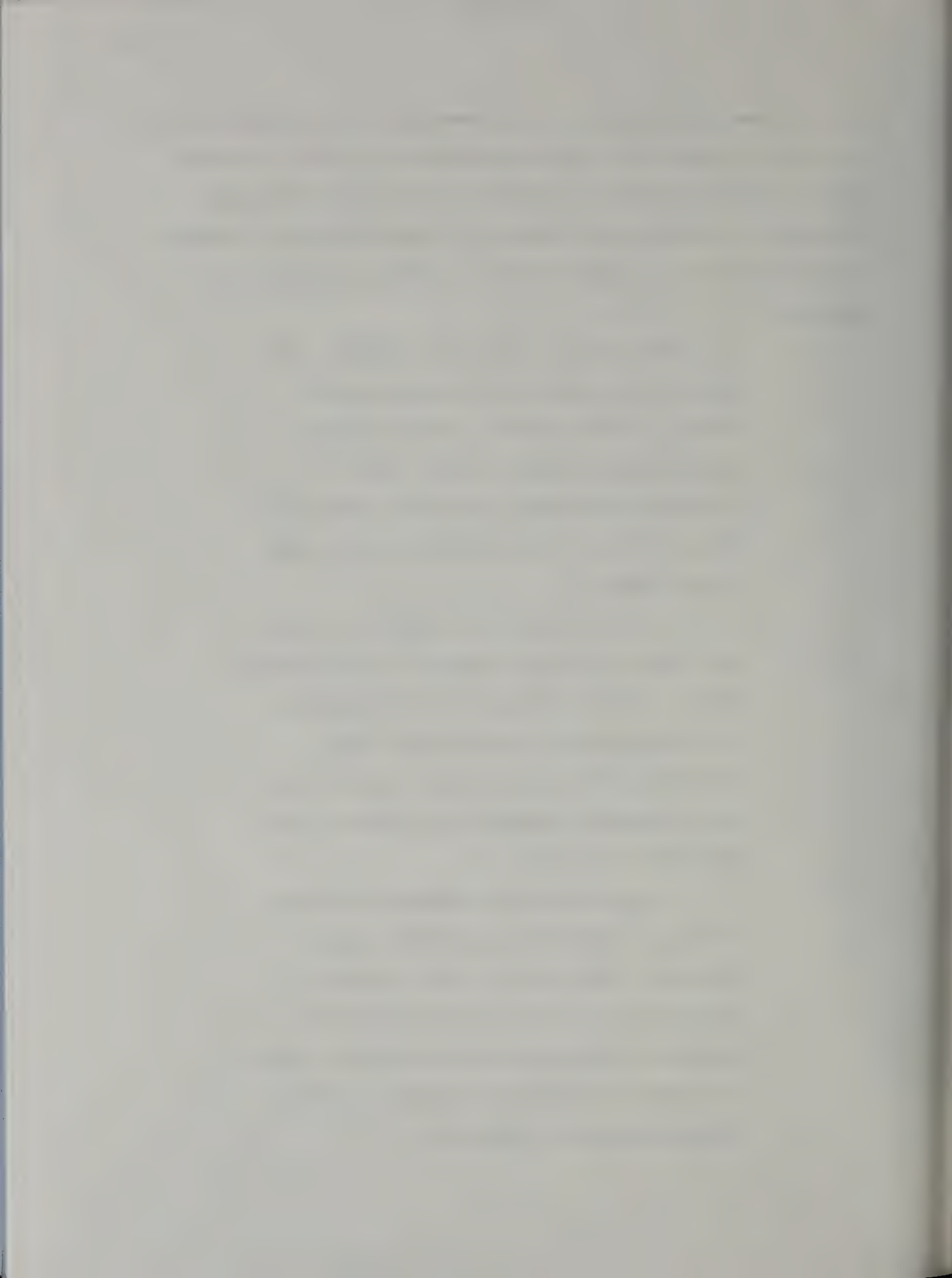
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1 Mr. Chairman and Members of the Committee, the vesting date is a
2 significant term and a significant date in terms of whether
3 there's an obligation, or whether the University Regents
4 conferred a nonobligatory amount of money of several hundred
5 thousand dollars -- approximately a million dollars upon
6 somebody.

7 "Mr. Brady said, you do not qualify. He
8 only worked there for four and a half
9 years, is the response, while President
10 Gardner worked twenty years. The
11 difference, however, is he was asking for
12 \$80,000, not a million-two, yet that was
13 turned down.

14 "When we made this decision, we did
15 not receive a legal opinion; it was talked
16 about. It was not given to the Regents,
17 both from Morrison and Forester and
18 O'Melveny and Myers, a legal opinion that
19 we have spent thousands and thousands of
20 dollars to justify.

21 "Now we have an opinion from Towers
22 Perrin, a management consultant group.
23 This is a group that we pay hundreds of
24 thousands of dollars to do management
25 studies, actuarial studies, and what would
26 you expect but them to come back and say
27 the management is underpaid.
28



1 "The California Post Secondary
2 Education Commission considered this.
3 They said by the study of four systems
4 that he received 83 percent more than
5 other presidents. ~~But~~^Y another measure, he
6 received 33 percent more. Even then, the
7 study did not account for \$126,000 in
8 pension benefits; it did not include
9 \$85,000 in income tax payments, house
10 maintenance payments, house allowance
11 payments, and property taxes. It did not
12 include \$70,000 in additional NDIPs."

13 Nonqualified Deferred Income Plan.

14 "He was only given credit for \$63,000 in
15 NDIPs. So when all of these things are
16 added, he is grossly, grossly, grossly
17 overpaid, and anyone can see that.

18 "Regent Williams says that the only
19 thing we did is grant administrative
20 leave. The fact of the matter is, if we
21 voted no on that issue, he would have
22 received a pension of \$104,771 over 18
23 years, for a total of \$1.9 million,
24 indexed for inflation and beginning at age
25 60. And instead, we have given him
26 \$60,000 in administrative leave; \$60,850
27 on the NDIP I; \$247,000 on NDIPs II, IV,
28

1 V, and Special; \$184,000 on NDIP III;
2 \$306,000 in Special Supplement I, and
3 \$397,000 in Special Supplement II. All of
4 those are discretionary with us, and we
5 have decided to grant them, despite the
6 fact that we did not grant them to Robert
7 Stevens, who had considerably less money
8 involved.

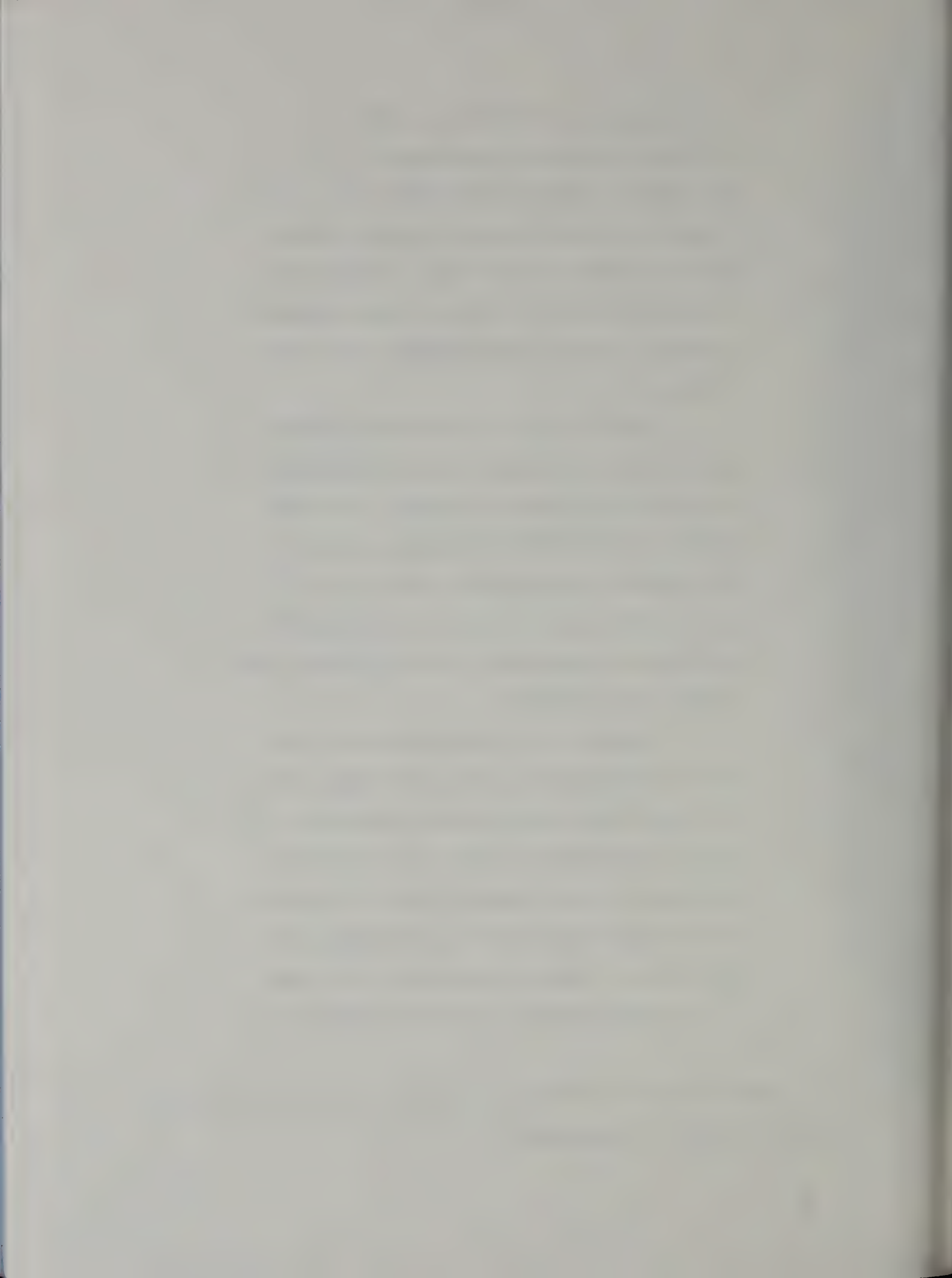
9 "When we look at his annual salary,
10 he is making \$243,500. He was receiving
11 \$9,000 for an insurance policy. He was
12 getting \$5,500 for his property taxes on
13 his house. He was getting \$25,000 for a
14 house allowance. He was getting \$28,000
15 for house maintenance. We were paying the
16 income taxes on that.

17 "How many on this Board were aware
18 that we were paying the income taxes that
19 he would have to pay on the income for his
20 house maintenance? That was unilaterally
21 decided with the President by the Chair of
22 the Finance Committee or a memorandum to
23 the file; I have not found out as of yet.

24 "The Associate President position

25 ..."

26 That's the one for the wife or the spouse, we're paying monies
27 for the spouses of Chancellors.
28



1 "The Associate President position
2 generated approximately \$25,000 for him.
3 He was given an interest subsidy on his
4 home. The mortgage was 6.11 percent when
5 the going rate was 11 and 12 percent
6 during most of this period. That
7 generated \$16,000 more a year. He was
8 getting fringe benefits of 22 percent of
9 his base salary; that's \$53,000 a year.
10 An automobile at \$8400 a year; \$7500 for
11 estate and tax planning; \$26,000 in
12 special NDIPs; \$12,000 in NDIP I; \$14,000
13 in NDIP II; \$46,000 in NDIP III ..."

14 CHAIRMAN ROBERTI: What's NDIP?

15 SENATOR KOPP: Nonqualified Deferred Income Plan. In
16 the jargon of the University of California's Finance Committee,
17 it's NDIPs.

18 "\$46,000 in NDIP III; \$14,000 in NDIP IV;
19 \$16,000 in NDIP V. A total of \$562,000.

20 "He had a driver. He had \$85,000
21 that we were paying for Blake House to be
22 vacant ..."

23 That's the Chancellor's home at the University of California at
24 Berkeley campus,

25 "... to maintain it, and despite the fact
26 that he had no obligation at his Orinda
27 home to maintain social functions as he
28

1 did at his Utah connection ... he also had
2 an expense account of \$50,000, and he has
3 a pension of \$2.3 million over the
4 lifetime beginning at age 60 and fully
5 indexed for inflation."

6 Now, Mr. Nakashima, does that refresh your
7 recollection generally and substantially as to Mr. Hallisey's
8 comments at the time?

9 CHAIRMAN ROBERTI: I'm going to let Mr. Nakashima
10 refresh his recollection, and I'm going to break for five
11 minutes.

12 [Thereupon a brief recess was taken.]

13 CHAIRMAN ROBERTI: The Committee will come to order.
14 Mr. Nakashima, Senator Kopp posed a question of you.
15 Would you like to respond, please?

16 SENATOR KOPP: I think the question was whether that
17 refreshed your memory as to what Mr. Hallisey said at that
18 meeting?

19 MR. NAKASHIMA: Yes.

20 SENATOR KOPP: And I've given you a copy of a
21 document entitled, "SEVERANCE PACKAGE OF PRESIDENT GARDNER".

22 Do you recall that this was distributed by
23 Mr. Hallisey at the meeting to each of the Regents?

24 MR. NAKASHIMA: Yes.

25 SENATOR KOPP: At that meeting, Mr. Nakashima, you
26 made a statement in support of a motion by the Chairman of the
27 Finance Committee, Mr. Williams, which was seconded by the
28

1 Governor of the State of California to re-affirm the money which
2 had been conferred on Mr. Gardner in March; correct?

3 MR. NAKASHIMA: Yes.

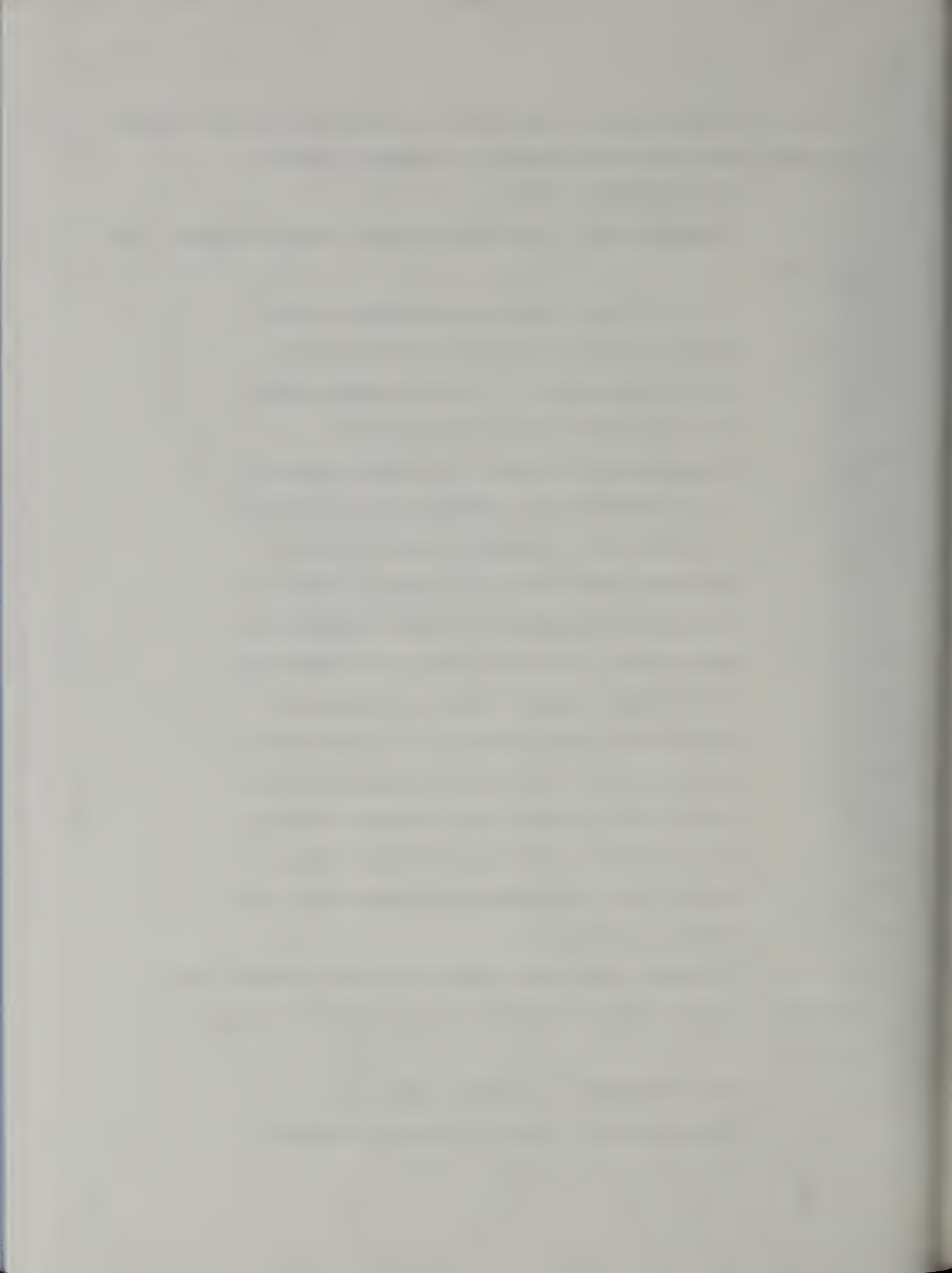
4 SENATOR KOPP: And your statement was as follows, and
5 I quote:

6 "I hope that the newspapers print
7 Speaker Brown's comments word for word,
8 and I appreciate it. This package passed
9 out by Regent Hallisey disturbs me
10 tremendously, because I have seen figures
11 in the newspapers, anywhere from \$480,000
12 to \$1,400,000. Tomorrow you're going to
13 see some paper coming out saying that the
14 severance package for President Gardner is
15 \$4,940,000, and that he has been receiving
16 \$2,300,000 a year. This is the type of
17 information that distorts. I really don't
18 like it, and I think it's a disservice not
19 only to the Regents and President Gardner,
20 but I think to the people of the State of
21 California, for Regent Hallisey to put out
22 trash like this."

23 I assume from that comment that you consider the
24 document that Mr. Hallisey prepared to be trash; is that
25 correct?

26 MR. NAKASHIMA: I didn't like it.

27 SENATOR KOPP: Do you consider it trash?
28



1 MR. NAKASHIMA: That's my statement.

2 SENATOR KOPP: Well, Mr. Nakashima, can you point out
3 or identify any part of that laboriously prepared document which
4 is incorrect?

5 MR. NAKASHIMA: The information on these sheets that
6 I was referring to was the sum of \$4,184,855 is deceiving to
7 show that figure as being the total under the title of severance
8 package of President Gardner. And that's what I referred to.
9 And I think that this is misleading, and this is the type of
10 information and method of presentation that creates problems.

11 SENATOR KOPP: Was the \$60,000 for administrative
12 leave accurate?

13 MR. NAKASHIMA: The \$60,000 administrative leave
14 refers to the period from October 1st to December 31st, and I
15 think it's pretty standard practice to grant this type of
16 situation -- of the compensation to anyone who is retiring from
17 a position of that nature.

18 SENATOR KOPP: What you did, what you voted to do,
19 was to give an executive who was retiring on his own, not
20 because of age, on his own, three months' administrative leave;
21 correct?

22 MR. NAKASHIMA: That's right.

23 SENATOR KOPP: And that had a value of \$60,000;
24 correct?

25 MR. NAKASHIMA: Yes.

26 SENATOR KOPP: That enabled the same executive to
27 qualify for the Nonqualified Deferment Income Plan payments
28

The first part of the paper discusses the importance of the study and the objectives of the research. It also mentions the scope of the study and the limitations of the study.

The second part of the paper discusses the methodology used in the study. It mentions the data sources and the data collection methods used in the study.

The third part of the paper discusses the results of the study. It mentions the findings of the study and the conclusions drawn from the study.

The fourth part of the paper discusses the implications of the study. It mentions the practical implications of the study and the theoretical implications of the study.

The fifth part of the paper discusses the conclusion of the study. It mentions the overall findings of the study and the recommendations for future research.

The sixth part of the paper discusses the references used in the study. It mentions the books, articles, and other sources used in the study.

The seventh part of the paper discusses the appendix. It mentions the additional information provided in the appendix.

1 under the various schedules; correct?

2 MR. NAKASHIMA: I believe so.

3 SENATOR KOPP: And are the figures for each of those
4 plans, NDIP I, NDIP II, NDIP IV, NDIP Special, NDIP III,
5 accurate?

6 MR. NAKASHIMA: I don't know whether they're accurate
7 or not.

8 SENATOR KOPP: Don't you know that Mr. Hallisey
9 obtained these from the staff of the University of California?

10 MR. NAKASHIMA: Well, I will accept it.

11 SENATOR KOPP: And the \$2,335,606, do you know what
12 that consists of?

13 MR. NAKASHIMA: That appears to be the retirement
14 payment to him over a period of 18.5 years.

15 SENATOR KOPP: Which is based upon annuity; correct?

16 MR. NAKASHIMA: Based on \$126,249.

17 SENATOR KOPP: And indexed for inflation; correct?

18 MR. NAKASHIMA: Yes.

19 SENATOR KOPP: And do you have any reason to doubt
20 the accuracy of the \$912,000 that's made up of the items that
21 are set out under the heading "House Orinda"?

22 MR. NAKASHIMA: I have no way of determining the
23 accuracy of that figure.

24 SENATOR KOPP: Did you take the time to ascertain
25 what the total value of those benefits amounted to?

26 MR. NAKASHIMA: No.

27 SENATOR KOPP: Well, can you point to any written
28

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1 contract which constitutes a legal obligation to confer these
2 amounts on Mr. Gardner?

3 MR. NAKASHIMA: The contracts were in the possession
4 of the individuals who take care of those matters at the
5 University. I don't think any Regent has copies of contracts of
6 this nature.

7 SENATOR KOPP: Do you know whether Mr. Gardner ever
8 signed a contract when he was engaged as President of the
9 University of California?

10 MR. NAKASHIMA: I don't know. I wasn't on the Board
11 then.

12 SENATOR KOPP: Would it surprise if I informed you
13 that no such contract was ever signed by him?

14 MR. NAKASHIMA: I wouldn't know what to think.

15 SENATOR KOPP: Well, Mr. Chairman, I appreciate you
16 giving me the opportunity. I want to make a statement.

17 I cannot vote to confirm Mr. Nakashima, because I
18 consider this a very serious document. I happen to know that it
19 took hours to prepare. It was distributed by a member of the
20 Regents of the University of California in good faith.

21 Under the Constitution of the State of California,
22 the Regents have the duties of a trustee. The University of
23 California under the Constitution is a public trust.

24 And to characterize this document and the contents of
25 it as "trash" is unacceptable to me as a Senator with the
26 obligation to vote either to confirm or not confirm the
27 appointment of a trustee of the public trust known as the
28

the first of these is the fact that the system is not in equilibrium. The second is the fact that the system is not in equilibrium.

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The twenty-eighth is the fact that the system is not in equilibrium.

The twenty-ninth is the fact that the system is not in equilibrium.

The thirtieth is the fact that the system is not in equilibrium.

1 University of California.

2 MR. NAKASHIMA: Perhaps the use of the word "trash"
3 might not have been appropriate. Perhaps I should have used
4 some other term, but I still remember that when this document
5 was presented, another Regent stood up and made a statement
6 referring to this particular document, tore it in half.

7 SENATOR KOPP: Yes, that was Mr. Bagley. That was
8 Mr. Bagley who, in one of the most buffoonish acts I've ever
9 seen in public life, took this, with that characteristic
10 Bagleyesque way, and started to tear it up as you uttered the
11 word "trash".

12 That also is quite an accomplishment for a person
13 given the public trust of administering the University of
14 California.

15 MR. NAKASHIMA: I'm sorry, Senator Kopp, if I
16 offended you.

17 SENATOR KOPP: Well, you offended me by your
18 characterization of the document, and Mr. Bagley offended me by
19 his buffoonish ways.

20 CHAIRMAN ROBERTI: Thank you, Senator.

21 Senator Petris.

22 SENATOR PETRIS: I want to thank Senator Kopp for
23 bringing all of this out. He did it previously in public
24 statements and on the Floor.

25 I think the focus is misdirected, however. I've been
26 hearing, as I said on the Floor, many statements. I can't
27 attribute any of them to Senator Kopp, although he may have made
28

1. The first part of the paper is devoted to a general discussion of the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters α and β . It is shown that the system has a solution for arbitrary values of the parameters α and β if and only if the condition $\alpha + \beta = 1$ is satisfied. In this case the solution is unique and is given by the formula
2. The second part of the paper is devoted to a study of the properties of the solution of the system of equations (1) for arbitrary values of the parameters α and β . It is shown that the solution is continuous and differentiable with respect to the parameters α and β if and only if the condition $\alpha + \beta = 1$ is satisfied. In this case the solution is unique and is given by the formula
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5. The fifth part of the paper is devoted to a study of the properties of the solution of the system of equations (1) for arbitrary values of the parameters α and β . It is shown that the solution is continuous and differentiable with respect to the parameters α and β if and only if the condition $\alpha + \beta = 1$ is satisfied. In this case the solution is unique and is given by the formula
6. The sixth part of the paper is devoted to a study of the properties of the solution of the system of equations (1) for arbitrary values of the parameters α and β . It is shown that the solution is continuous and differentiable with respect to the parameters α and β if and only if the condition $\alpha + \beta = 1$ is satisfied. In this case the solution is unique and is given by the formula
7. The seventh part of the paper is devoted to a study of the properties of the solution of the system of equations (1) for arbitrary values of the parameters α and β . It is shown that the solution is continuous and differentiable with respect to the parameters α and β if and only if the condition $\alpha + \beta = 1$ is satisfied. In this case the solution is unique and is given by the formula
8. The eighth part of the paper is devoted to a study of the properties of the solution of the system of equations (1) for arbitrary values of the parameters α and β . It is shown that the solution is continuous and differentiable with respect to the parameters α and β if and only if the condition $\alpha + \beta = 1$ is satisfied. In this case the solution is unique and is given by the formula
9. The ninth part of the paper is devoted to a study of the properties of the solution of the system of equations (1) for arbitrary values of the parameters α and β . It is shown that the solution is continuous and differentiable with respect to the parameters α and β if and only if the condition $\alpha + \beta = 1$ is satisfied. In this case the solution is unique and is given by the formula
10. The tenth part of the paper is devoted to a study of the properties of the solution of the system of equations (1) for arbitrary values of the parameters α and β . It is shown that the solution is continuous and differentiable with respect to the parameters α and β if and only if the condition $\alpha + \beta = 1$ is satisfied. In this case the solution is unique and is given by the formula

1 the statement somewhere or other, but I've heard an awful lot of
2 statements from our colleagues that we ought to run government
3 like a business.

4 Well, that's what these fellows are doing, Senator
5 Kopp. They were running the University like a business. They
6 come from big businesses, and they're used to passing around the
7 cookies. And there isn't a day in the financial page, or at
8 least a week, that goes by on the financial page where I don't
9 read about some company that has a lot less employees than the
10 University, and certainly nothing to match the number of
11 students at the University, very, very small compared to the
12 University, who are conferring upon their retiring CEO enormous
13 benefits that dwarf these.

14 I remember an oil company executive whose company had
15 lost \$100 or \$200 million, continuing to take a salary of \$5
16 million a year. And the L.A. Times published a whole list a
17 year or so ago on these terribly inflated cookies that are
18 conferred on these people.

19 Now, you say that's private, but the consumer pays
20 for it. The consumer pays for it. And when he's buying that
21 gallon of gas, or that raggedy doll, or whatever it is they're
22 selling, he doesn't know anything about what's going on in that
23 boardroom. And the board of directors in some companies -- I'm
24 not condemning everybody in the private sector, but it's common
25 enough to set a pattern.

26 So these guys come in, appointed by a conservative
27 Republican Governor, drawn from the ranks of upper level
28

The first part of the paper discusses the importance of the study of the history of the United States. It is argued that the study of the history of the United States is essential for a full understanding of the country and its people. The paper then discusses the various methods used by historians to study the past, including the use of primary and secondary sources, and the importance of critical thinking in the study of history. The paper concludes by discussing the importance of the study of the history of the United States in the present day.

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1 business people, so they do what they think is normal.

2 To you and me, it's shocking. I know the figures
3 shocked all of us, and I think it's a good public service you
4 performed when you put the spotlight on it. It was kind of
5 late. It had already been done and so forth.

6 I still think that we all operate at the level of
7 experience that we know over the years.

8 I'm a poor boy from West Oakland that went to
9 McClannan's High School. The only one in my class who went
10 directly to the University of California, and my expenses at
11 U.C. were paid by the other classmates who went right to work.
12 You know, they paid my way at U.C. And I've never forgotten
13 that.

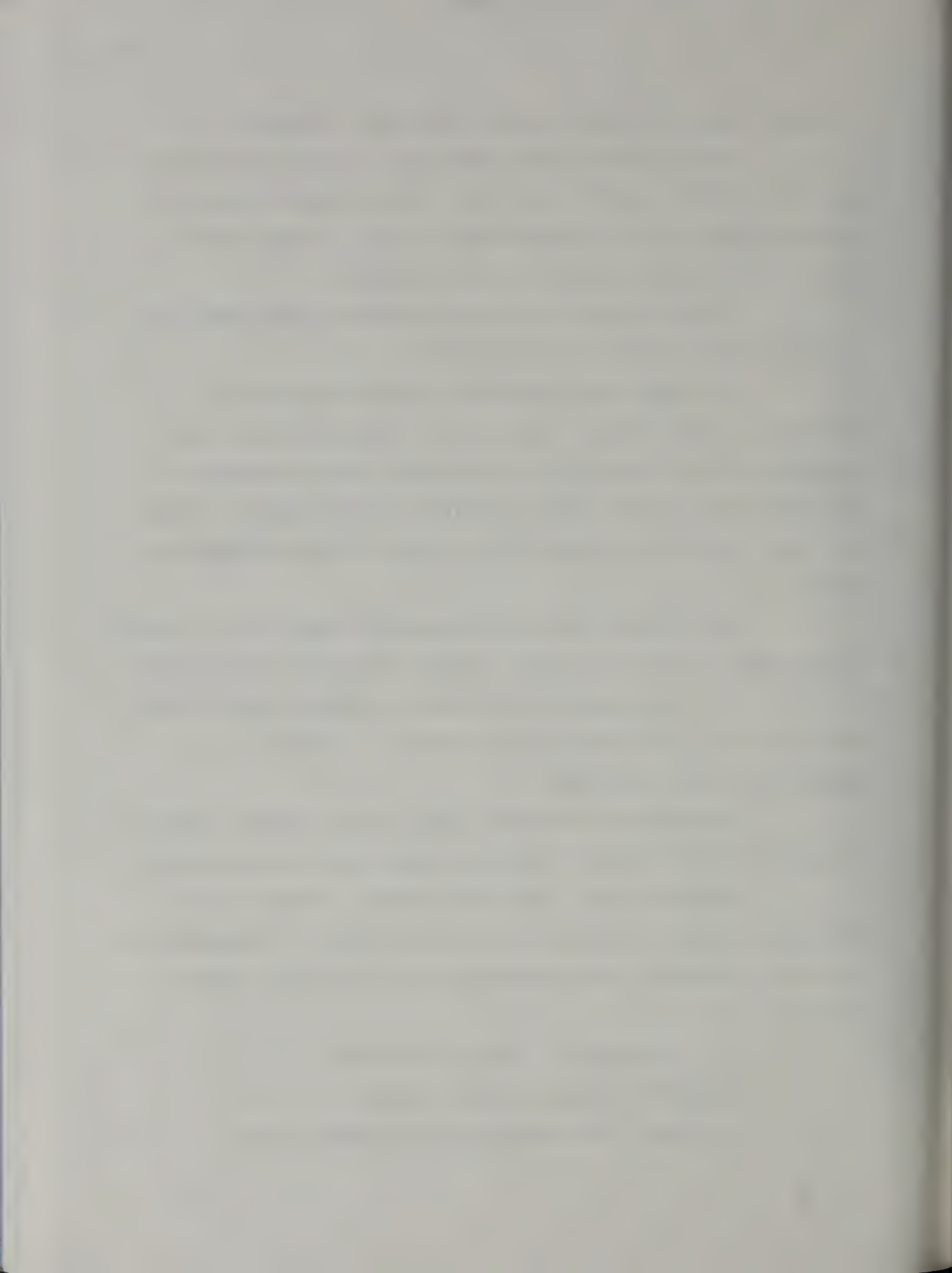
14 So, I never dream of figures like this. But a lot of
15 other people think it's normal. That's the way you do things.

16 Now, the public trust ought to require them to look
17 more carefully, you know, at the numbers. I think you're
18 absolutely right about that.

19 And probably the worst part was the secrecy. As the
20 Regents said, the secrecy should not have been done that way.

21 SENATOR KOPP: You strike a nerve, because, Mr.
22 Chairman, if you'll indulge me one brief moment. I happened to
23 re-read my remarks at that meeting, and I said this, Senator
24 Petris:

25 "Thirdly, I want to direct my
26 remarks to those of Regent Harold
27 Williams. The details of his remarks, and
28

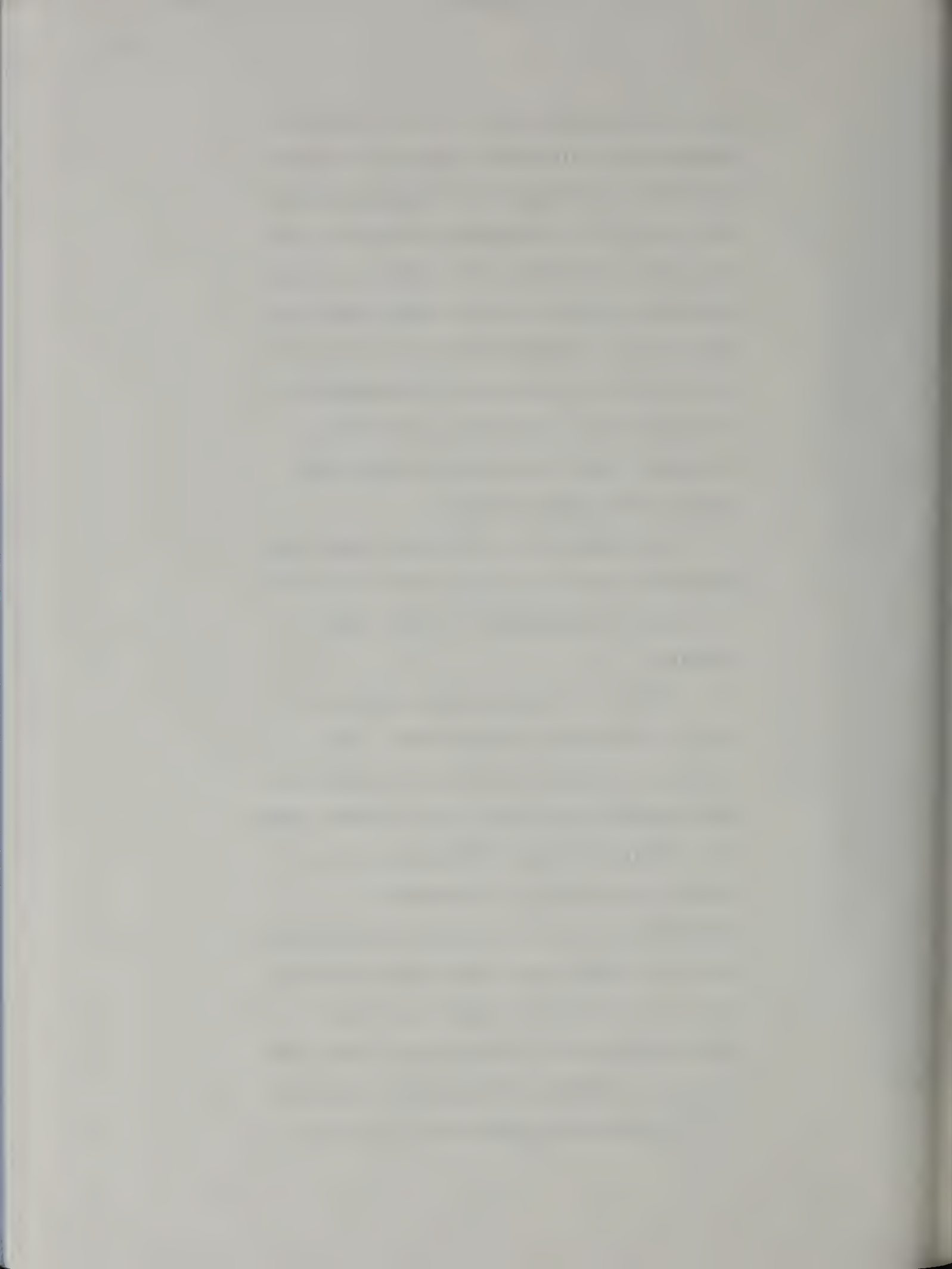


1 the allied papers, will, I am sure, be
2 examined and discussed during the course
3 of today's meeting of the Board, but let
4 me give you my unadorned conclusion from
5 not only his remarks, but from all of the
6 material that has finally been opened to
7 the public. No matter how you slice it,
8 this is a rich, rich, rich compensation
9 package, and it is based upon faulty
10 premises. And I want to tell you what
11 those faulty premises are.

12 "On page 2, Mr. Williams makes the
13 statement that the public sector is at a
14 'distinct disadvantage.' That's the
15 premise.

16 "Well, I say the public sector is
17 not at a distinct disadvantage. We
18 wouldn't have Pete Wilson as Governor of
19 an organism that spends \$60 billion a year
20 at a salary of about \$120,000 if the
21 public sector was at a distinct
22 disadvantage. Not if service in a public
23 office is based upon the ethos of public
24 service. If you're comparing it to
25 Eastman Kodak and General Motors and IBM,
26 you're not talking about public service.

27 "The person who makes his or her
28



1 mark, as President Gardner has done in the
2 public sector, is ... the type of person
3 who decides he or she wants to dedicate
4 him or herself to public service."

5 SENATOR PETRIS: Good point.

6 SENATOR KOPP: Can I ask that this paper be attached
7 to the record so that anyone reading it will know what the
8 document is?

9 CHAIRMAN ROBERTI: Senator Ayala moves that the
10 compendium of Regent Hallisey be attached to the record.

11 SENATOR PETRIS: May I go back to conclude?

12 CHAIRMAN ROBERTI: Senator Petris.

13 SENATOR PETRIS: One of the points I wanted to touch
14 on was our concern about appointments from all levels of life be
15 more reflective of the general population as required by the
16 1974 amendment to the Constitution.

17 Now, in re-appointing you, I think the Governor, as
18 to this appointment, has complied with that. I hope you would,
19 in your discussions, relay my message; although I hope to see
20 him myself to do it, too, that I hope he continues this policy
21 of drawing on people from various segments of the population to
22 show that the Regents reflect the general population to a
23 greater extent than we've had in the recent past.

24 There's a question I had which you may know about or
25 not. There is a provision in that same Constitution that
26 requires the Governor to confer with an advisory committee
27 before he makes any appointments to the Regents. And it spells
28

1 out who the members of the advisory committee are. They
2 include: the Speaker, and two public members appointed by the
3 Speaker, and the President of the Senate, and two public members
4 appointed by the President of the Senate, and some others.

5 In the Senate, we made those appointments, but as far
6 as I know, Mr. President, there's never been a meeting of that
7 advisory committee. As far as I know, it's never conferred with
8 the Governor.

9 CHAIRMAN ROBERTI: Not that I can recall in all the
10 years that I've been here.

11 SENATOR PETRIS: It probably has never conferred with
12 any governor since '74, so I'm not laying the blame on Governor
13 Wilson exclusively.

14 But it seems to me that this recent amendment,
15 relatively speaking, was designed to see to it that we get a
16 better balance in the appointments to the Regents. And I guess
17 at our end, we've been negligent in not reminding each Governor
18 to make sure that this policy is carried out. After all, it's a
19 mandate from the people embedded in the Constitution.

20 I would refer you to Article IX and the amendment of
21 1974. We have a copy here we can probably give you. And to the
22 extent to that the Governor confers with the Regents, which he
23 may do sometime, about future appointments, it may be helpful to
24 remind him of that provision as well.

25 CHAIRMAN ROBERTI: I think that would be fine, and I
26 think we should maybe send a letter, I would say, that all
27 future appointments will not be confirmed unless the process --
28

1 SENATOR PETRIS: Is followed.

2 CHAIRMAN ROBERTI: -- is followed. It's a
3 constitutional process, and not to single out Governor Wilson.
4 I just don't think any governor --

5 SENATOR PETRIS: I don't think any governor's done
6 it.

7 SENATOR BEVERLY: I never heard of it until this
8 moment.

9 SENATOR PETRIS: Well, I didn't hear of it until
10 about an hour before the meeting started.

11 CHAIRMAN ROBERTI: That shows you how it has been
12 observed.

13 SENATOR PETRIS: I don't want to lay it on the
14 Governor alone. I mean, every Governor since 1974 has had that
15 duty, and none of the governors, so far as we know -- and I
16 think I've been on this Committee since about that time --
17 they've never done it.

18 So, it would just be a polite, constructive proposal
19 to the Governor, reminding him that perhaps it's time that this
20 provision were followed.

21 CHAIRMAN ROBERTI: Mr. Nakashima, you can take our
22 message to the Governor.

23 MR. NAKASHIMA: For your information, there's been
24 considerable discussion among Regents with respect to the next
25 appointments to be made by the Governor. And without any
26 reservation, the unanimous feelings are that it must from the
27 under-represented minorities. Let's come right out and say it,
28

1 so that we have recommended there be a Black, a Chicano, or an
2 Asian. And that the two should be from these three categories.

3 And we have discussed this, and we're hopeful that
4 the Governor will listen to us.

5 CHAIRMAN ROBERTI: Very good.

6 SENATOR BEVERLY: I have one question.

7 CHAIRMAN ROBERTI: Senator Beverly.

8 SENATOR BEVERLY: Just a matter of curiosity.

9 What was the vote on the retirement package for the
10 President?

11 MR. NAKASHIMA: I think it was -- in favor of it was
12 everyone excepting, I believe, Mr. Hallisey, Yvonne Braithwaite
13 Burke, and I think there might have been one other person.

14 SENATOR BEVERLY: Thank you.

15 SENATOR AYALA: I have a question for Senator Kopp.

16 CHAIRMAN ROBERTI: Senator Ayala.

17 SENATOR AYALA: Mr. Kopp, did you indicate that there
18 was no binding contract that would legally force the Regents to
19 comply with this retirement package?

20 SENATOR KOPP: That's right.

21 What they did with this administrative leave is, then
22 allow those plans, which would not take effect until various
23 years in the future after the age of 65, to take effect.

24 SENATOR AYALA: But coming in, there was no
25 commitment to Dr. Gardner that when he retired, he would get all
26 these little goodies? There was no legal requirement?

27 SENATOR KOPP: Until he had served for the period of
28

1 time required.

2 SENATOR AYALA: Then he did have some binding --

3 SENATOR KOPP: If he served --

4 SENATOR AYALA: Did he?

5 SENATOR KOPP: -- until the various ages that are
6 required to qualify.

7 He did not serve the full time required. And so, the
8 granting of administrative leave was critical to him getting an
9 entitlement and vesting, in effect.

10 SENATOR PETRIS: I have one more question.

11 CHAIRMAN ROBERTI: Yes, Senator Petris.

12 SENATOR PETRIS: You mentioned that these policies
13 are now under review and will be changed.

14 Have any of the contracts you mentioned been
15 renegotiated or changed?

16 MR. NAKASHIMA: I believe the -- there's been a
17 suspension of these NDIP programs until such time as some study
18 is made of it, then a decision is made.

19 SENATOR PETRIS: Thank you.

20 CHAIRMAN ROBERTI: Any further questions?

21 I'd like to make an observation.

22 I intend to vote for your confirmation because of
23 your background and your qualifications.

24 However, I do share very much Senator Kopp's concern
25 in this area. It is almost as if the Regents are living on
26 another planet, when we are trying to discuss tightening the
27 belt of the state, tightening the belt of the University, asking
28

1 the University to act within a realm of reality that everybody
2 else in this state seems to perceive.

3 And I don't have any quarrel with how Dr. Gardner
4 conducted himself at the University. I think he was a fine
5 President, but there are lots of fine people who do public
6 service. There may be even an occasional fine Legislator.

7 And a retirement and salary package of this enormity
8 at a time like this is incomprehensible. Incomprehensible. It
9 did the University damage. I won't say irreparable damage, but
10 it did the University damage, doing it in secret.

11 These are things we've learned the hard way in the
12 Legislature. You don't do that, because eventually the public
13 finds out anyway, and you erode public confidence. We, too,
14 have learned it the hard way.

15 I would hope that the University has learned by this
16 error, and I really counsel you and the other members of the
17 Board of Regents that, at a time when we're tightening our belt,
18 we can't do these super generous packages.

19 How do we answer to the taxpayers? How do you answer
20 to the taxpayers and the students?

21 We all have to set examples, and we all fall short
22 because we're human beings. But I think anybody, when they saw
23 this package, thinking in terms of public reaction, would have
24 known without even asking a question that this was way too
25 generous for these times. Maybe way too generous, period.

26 And that is not to cast any aspersion on Dr. Gardner,
27 whom I know and whom I think performed admirably for the
28

1 University, but damage was done.

2 MR. NAKASHIMA: I would like to make one comment.

3 I believe that Regent Hallisey performed admirably.
4 He contributed a tremendous amount to the Regents by his
5 opposition to many things.

6 I've always felt that when there's unanimity at all
7 times on all matters, something is wrong. And I appreciate it.

8 It might have been uncomfortable for me at times for
9 Senator Kopp to be here and questioning me, but I appreciate the
10 fact that he has come. I think he's brought things out that
11 might not have been out in the open up to now.

12 All I can say is, I acted in good faith and upon the
13 advice of attorneys and Speaker Brown, and certain other
14 individuals. And if an error was made, I don't think it was
15 intentional.

16 CHAIRMAN ROBERTI: Are there any other questions?

17 Is there any opposition in the audience?

18 Do I hear a motion?

19 SENATOR BEVERLY: Move we recommend confirmation.

20 CHAIRMAN ROBERTI: Senator Beverly moves

21 confirmation be recommended to the Floor.

22 Secretary will call the roll.

23 SECRETARY WEBB: Senator Ayala. Senator Beverly.

24 SENATOR BEVERLY: Aye.

25 SECRETARY WEBB: Beverly Aye. Senator Petris.

26 SENATOR PETRIS: Aye.

27 SECRETARY WEBB: Petris Aye. Senator Craven.

28

1 Senator Roberti.

2 CHAIRMAN ROBERTI: Aye.

3 SECRETARY WEBB: Roberti Aye.

4 CHAIRMAN ROBERTI: The vote is three to zero;
5 confirmation is recommended to the Floor.

6 Congratulations.

7 MR. NAKASHIMA: Thank you very much.

8 [Thereupon this portion of the
9 Senate Rules Committee hearing
10 was terminated at approximately
11 4:15 P.M.]

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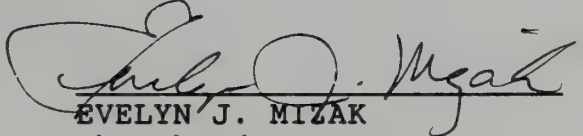
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of February, 1993.


EVELYN J. MIZAK
Shorthand Reporter



THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

JEREMIAH F. HALLISEY
Regent

300 Montgomery Street
Suite 538
San Francisco, California 94104
415-433-5300

SEVERANCE PACKAGE OF PRESIDENT GARDNER

60,000	Administrative Leave
60,850	NDIP I (would not receive it without administrative leave)
247,400	NDIP II, IV, Special
184,357	NDIP III
306,000	Special Supplemental to Retirement Program I
32,687	Executive Severance Pay Plan
<u>45,955</u>	Associate Severance Credits
\$937,249	Sub Total
2,335,606	\$126,249 x 18.5 years Begins at age 60 and will be indexed for inflation
912,000	House Orinda Approximately \$912,000 paid to President Gardner over ten years. \$65,000 each year paid to Gardner by University over 10 years, for housing allowance, house maintenance, income taxes on house maintenance, property taxes, and the difference between his real equity and his purported equity of \$150,000, plus \$160,000 in interest subsidies over ten years.
\$4,184,855	Total



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JEREMIAH F. HALLISEY
Regent

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415-433-5300

APPROXIMATE ANNUAL COMPENSATION, FRINGE BENEFITS, MISC. BENEFITS AND COSTS OF PRESIDENT GARDNER

Annual

243,500	Salary
9,000	Teachers Ins. (TIAA) \$500,000 life policy
5,500	Property taxes, Orinda house
25,000	House allowance
28,800	House maintenance
11,520	Income tax paid on house maintenance expense
25,000 (approx.)	Associate President 5% of base pay of President plus workers comp., university travel
16,000	Interest subsidy on Orinda home
53,000	Fringe benefits, 22% of base pay
3,000	Saverance account
8,400	Automobile
7,500	Estate planning, tax planning
26,152	Special NDIP
12,170	NDIP I
14,095	NDIP II
46,089	NDIP III
14,963	NDIP IV
<u>16,025</u>	NDIP V
\$565,714	Subtotal
10,000	Driver
85,000	Maintenance of Blake House
58,000	Expense Account
40,000	Fluor Corporation
10,000	First Security Corp.
<u>42,000</u>	George & Dolores Eccles Foundation
\$245,000	Subtotal
\$810,714	TOTAL
2,335,606	Pension \$126,249 per year for 18.5 years Indexed and begins at age 60



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UTAH HOUSE INFORMATION

Actual Cash figures only:

Monies Received by Regents:

45,000 in 1984 when property first sold to Richards
160,000 in 1988 when property ultimately sold & Regents cashed out

205,000 total received (exclusive of below market interest
received from purchaser/borrower Richards)

=====

Monies Paid Out by Regents:

\$139,000 payoff Gardner loan to University of Utah
18,000 commission on sale to Richards
150,000 advance of equity to Gardner, in form of no interest loan.
The loan was later cancelled by Regents

(307,000) total paid out by Regents

(102,000) loss to Regents

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HEARING
SENATE RULES COMMITTEE
STATE OF CALIFORNIA



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SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 10, 1993
1:58 P.M.

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SENATE RULES COMMITTEE
STATE OF CALIFORNIA

HEARING

STATE CAPITOL
ROOM 113
SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 10, 1993
1:58 P.M.

Reported by:

Evelyn J. Mizak
Shorthand Reporter

APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR RUBEN AYALA

SENATOR ROBERT BEVERLY

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

DANIEL APODACA, Member
California State Lottery Commission

SENATOR ART TORRES

RICHARD CRAMER, Member
California State Lottery Commission

SHARON SHARP, Director
California State Lottery Commission

EDWARD L. LAMMERDING, Member
California State Lottery Commission

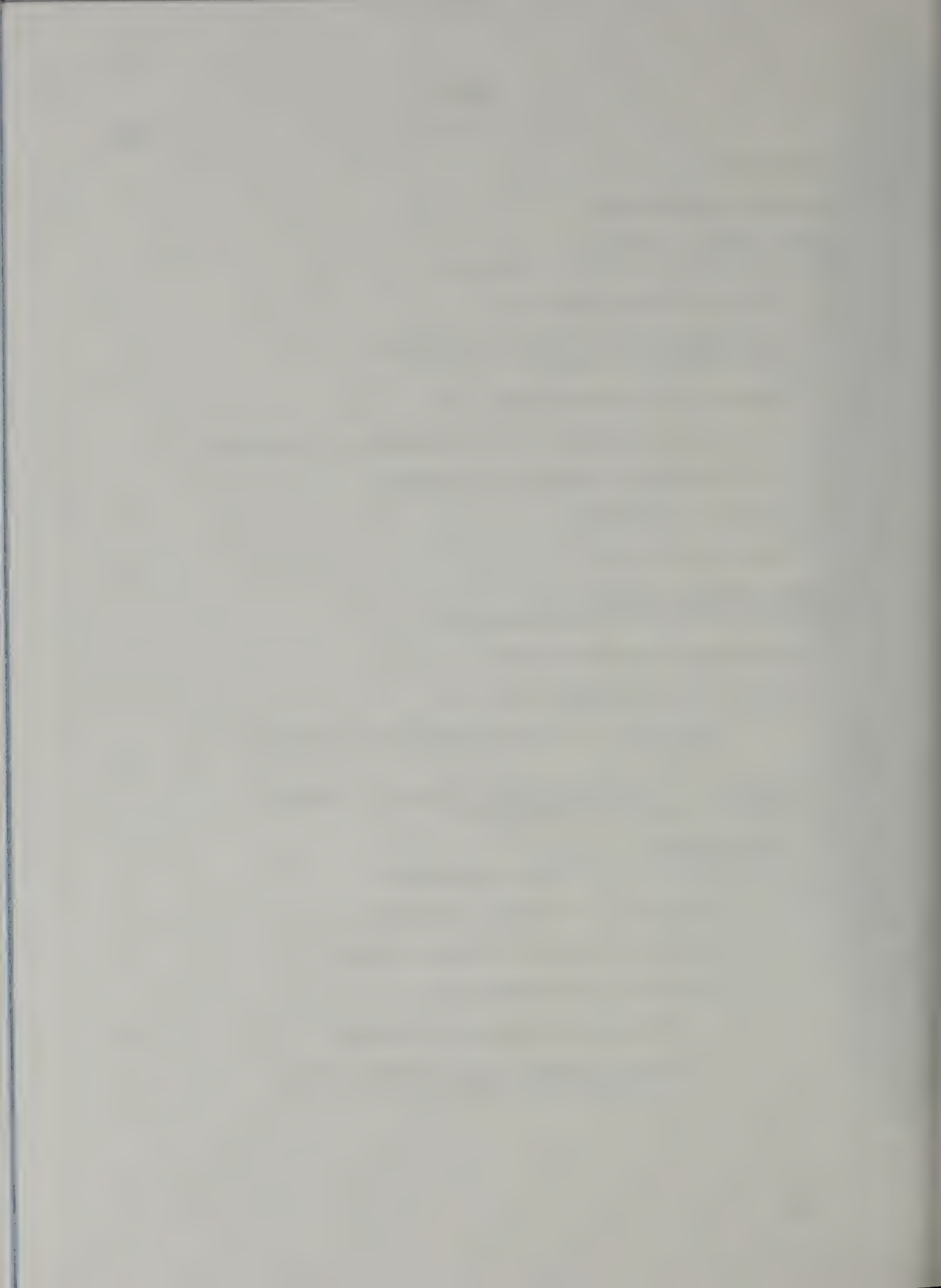
JAMES W. NIELSEN, Member
Board of Prison Terms

SENATOR QUENTIN KOPP

RALPH D. MORRELL

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1
2
3 SENATOR CRAVEN: Would the Members have any objection
4 to taking those up now?

5 SENATOR BEVERLY: I have no objection.

6 SENATOR CRAVEN: Fine, let's go to Item 2 on the
7 agenda, which is Governor's appointees appearing today. First
8 is Daniel Apodaca, Member, California State Lottery Commission.

9 Mr. Apodaca, we're going to ask you what we always
10 ask the nominees, and that's to tell us why in their opinion
11 they feel they are qualified for the job to which they have been
12 nominated.

13 MR. APODACA: Senator, one of the five members of the
14 Lottery Commission must be a certified public accountant, and I
15 have been a certified -- I am and I have been a certified public
16 accountant for many years.

17 SENATOR CRAVEN: Art, do you want to say a few kind
18 words?

19 SENATOR TORRES: Actually, I just want to stand by
20 Mr. Apodaca, whom I've known for many, many years in Los
21 Angeles. His character and reputation is impeccable in not only
22 the Hispanic community, but the professional community as well.

23 I just wanted to indicate that although he's not a
24 constituent of mine, I've known him long enough to recommend him
25 very highly to the membership of this Committee, and I think he
26 will approach this responsibility dutifully, as he has already
27 in the interim, since April, I believe. And I would urge your
28 appointment.

1 SENATOR CRAVEN: Thank you very much.

2 Mr. Apodaca, your Senator there with you, his
3 endorsement means a great deal to the Members of the Committee.

4 At this time I'll ask if there's anyone in the
5 audience who wishes to speak in favor of this nominee, or anyone
6 who is in opposition? There appears to be none.

7 You are, obviously, not very controversial.

8 SENATOR AYALA: I have a question for Mr. Apodaca, as
9 I do for the other members, or rather, candidates.

10 We spoke briefly about the issue earlier in which the
11 Commission apparently amended some of the policies to extend the
12 life of a contract in order to retain the contractor without a
13 bid that would go to the lowest qualified bidder.

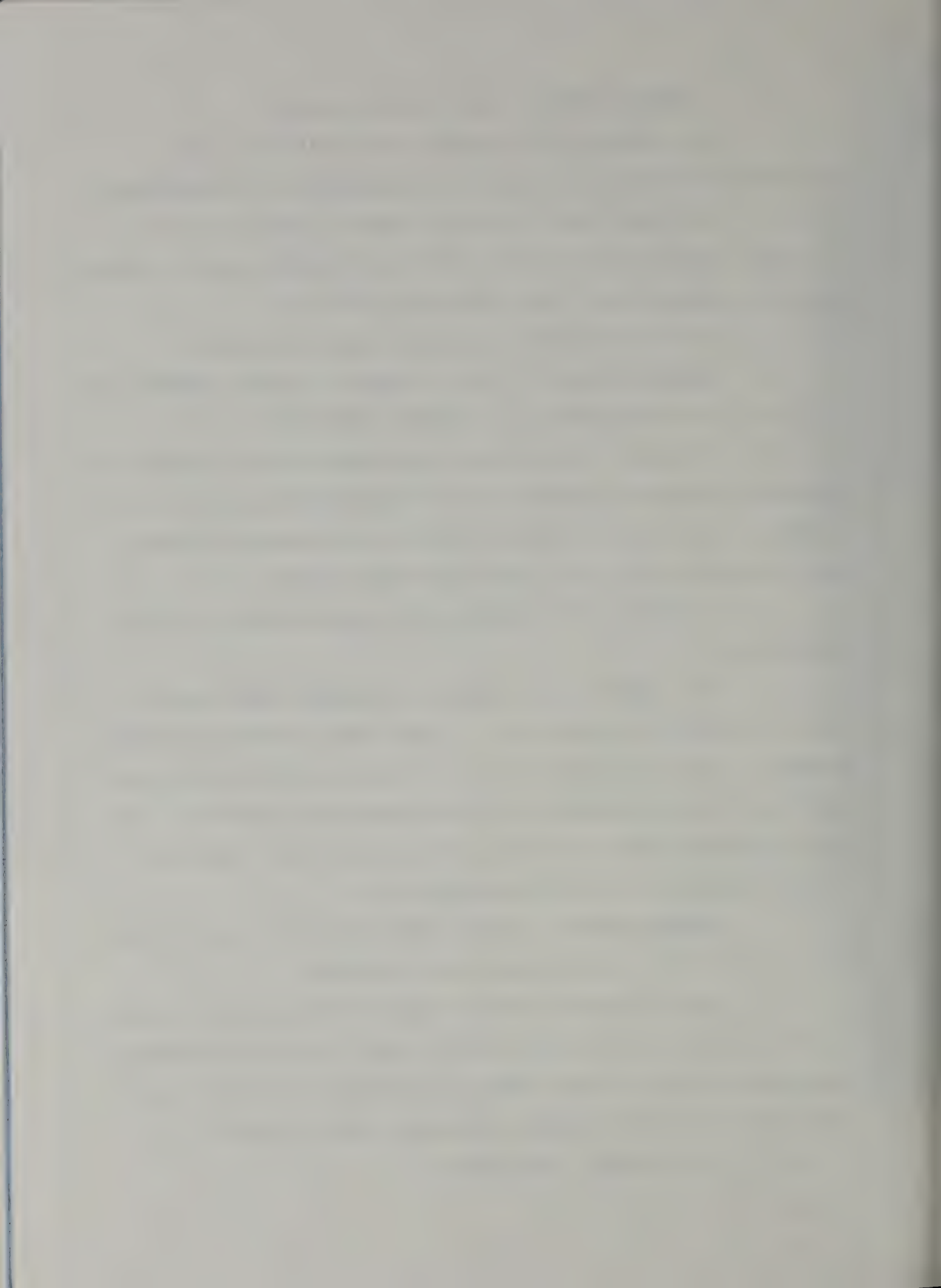
14 I wonder if Mr. Apodaca can explain again how that
15 came about?

16 MR. APODACA: I'm trying to remember specifically
17 which contractor this could be. I know that the entire Lottery
18 on-game -- on-line gaming system is coming up for bid, and this
19 last month the Commission put out a request for proposal. And
20 it's my understanding that there are at least two, hopefully
21 three, bidders that will be bidding on it.

22 SENATOR AYALA: But that practice will cease to exist
23 from here on out? Is that what you're saying?

24 And in terms of the contracts that have been awarded
25 to different contractors, they will be put out to a bid without
26 extending the life of that contract to service us through some
27 kind of an amendment that the Commission came up with?

28 MR. APODACA: Absolutely.



1 SENATOR AYALA: You're committed to that, and I want
2 to ask the other members the same thing.

3 MR. APODACA: Being a member of the business
4 community, just like the other Commissioners, I'm sure that we
5 all are committed to that.

6 SENATOR AYALA: There are five members, and we have
7 three here today which will obviously be able to determine the
8 outcome of that issue.

9 So, you're committed to making sure that the proper
10 bidding takes place on any and all contracts that the Lottery
11 Commission puts out?

12 MR. APODACA: Absolutely.

13 SENATOR AYALA: Okay, thank you.

14 SENATOR CRAVEN: Very well.

15 Any other comment from anyone? Members of the
16 Committee, what's your pleasure?

17 SENATOR AYALA: I'll move the approval of Mr.
18 Apodaca --

19 SENATOR CRAVEN: Senator Ayala moves --

20 SENATOR AYALA: -- as a member of the Lottery
21 Commission.

22 SENATOR CRAVEN: Very good, thank you.

23 Call the roll, please.

24 SECRETARY WEBB: Senator Ayala.

25 SENATOR AYALA: Aye.

26 SECRETARY WEBB: Ayala aye. Senator Beverly.

27 SENATOR BEVERLY: Aye.

28 SECRETARY WEBB: Beverly aye. Senator Petris.

1 Senator Craven.

2 SENATOR CRAVEN: Aye.

3 SECRETARY WEBB: Craven aye. Senator Roberti.

4 Three to zero.

5 SENATOR BEVERLY: Request the roll be left open.

6 SENATOR CRAVEN: Senator Beverly moves that the roll
7 be left open. We have two other Members who will be here and
8 would like to cast a vote, I'm sure.

9 Thank you very much, sir.

10 MR. APODACA: Thank you very much.

11 SENATOR CRAVEN: Next is Richard Cramer, Member,
12 California State Lottery Commission.

13 Mr. Cramer, would you tell us why you feel that you
14 are qualified for this position?

15 MR. CRAMER: Well, I'm a -- I'm a businessman. I've
16 run a number of businesses. And I understand the business of
17 marketing as well, and I know something about the electronics
18 industry, which the Lottery does -- is concerned with or
19 implements.

20 SENATOR CRAVEN: Very good.

21 Any questions of the nominee?

22 SENATOR AYALA: I have the same question for Mr.
23 Cramer.

24 SENATOR CRAVEN: Senator Ayala has a question.

25 SENATOR AYALA: You heard my question to Mr. Apodaca.
26 Can you tell us whether you will commit yourself to making sure
27 that any and all contracts that the Commission puts out be open
28 to any bidder, and that the best lowest bid is accepted?

1 MR. CRAMER: The best, best lowest bid, yes.

2 Many of our contracts have a provision --

3 SENATOR AYALA: I'm sorry?

4 MR. CRAMER: Many of our contracts have a provision
5 allowing for us to require extensions of the contracts.

6 SENATOR AYALA: It isn't quite clear to me how that
7 came about. There was an amendment --

8 MR. CRAMER: I wasn't there when that happened.

9 SENATOR AYALA: It allowed the current contractor to
10 expand their life within, you know, as a contractor, because of
11 an amendment. And we want to make sure that the best qualified
12 lowest bid is acceptable at all times.

13 MR. CRAMER: Absolutely, sir.

14 SENATOR AYALA: Thank you.

15 SENATOR CRAVEN: Senator Beverly.

16 SENATOR BEVERLY: Mr. Chairman, I wonder if we might
17 clarify the policy. It's not clear to me exactly what it is.
18 Maybe the Director or somebody could amplify it a little bit?

19 MS. SHARP: If you would like me to.

20 SENATOR BEVERLY: I would.

21 MS. SHARP: Good afternoon. My name is Sharon Sharp.
22 I'm Director of the Lottery.

23 And I would imagine, and Commissioner Cramer was not
24 there, that you are referring to the last extension of the GTECH
25 contract, which is our largest contract, our on-line vendor.

26 Their contract was for five -- four years, plus three
27 one-year extensions.

28 It is typical in the lottery business, if the

1 contractor is doing a good job, and if the system is running, to
2 extend those contracts for their extensions if you believe that
3 the price is right, and that they are doing a good job.

4 We did in fact extend. We are at this point out for
5 bid with an RFP because the extensions are up, or they will be
6 up next year, for a new on-line vendor contract.

7 We always look for the best and the most efficient
8 and the most cost effective bidder that we can find. We are in
9 a very, very strict process right now, and at that point, when
10 the bids are in and a new one is selected, we will be on then
11 for another contract, which is a five-year contract for five
12 one-year extensions.

13 And you have my pledge, as Lottery Director, as I am
14 sure you do the Commissioners', that we will always look for the
15 best qualified bidder.

16 SENATOR AYALA: Let me understand what you're saying.

17 The contracts were originally for five years in the
18 case of this current contractor.

19 MS. SHARP: Yes.

20 SENATOR AYALA: But if they're doing a good job in
21 the eyes of the Commission, you can extend it for three more
22 years --

23 MS. SHARP: Yes.

24 SENATOR AYALA: -- and then one beyond that when that
25 time is up.

26 MS. SHARP: Yes.

27 SENATOR AYALA: Well actually, if they're doing a
28 good job they've got a nine-year contract.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part of the document outlines the various methods and techniques used to collect and analyze data. It includes a detailed description of the experimental procedures and the statistical analysis performed.

3. The third part of the document presents the results of the study. It includes a series of tables and graphs that illustrate the findings of the research. The data shows a clear trend of increasing activity over time.

4. The fourth part of the document discusses the implications of the findings. It suggests that the results have significant implications for the field of study and may lead to further research in this area.

5. The fifth part of the document concludes the study. It summarizes the main findings and provides a final statement on the importance of the research.

1 MS. SHARP: Yes. And that is because it is so
2 resource intensive and so difficult for a Lottery to change what
3 is effectively 13,000 terminals, a system, and everything else.
4 You really do try to use all extensions, which is exactly what
5 we did.

6 But we knew we were going out for bid. But it takes
7 about -- it takes a good year to get prepared to go out for bid.

8 SENATOR AYALA: And when the original bid went out,
9 everyone who bid understood the five, three, one?

10 MS. SHARP: Yes. In fact, it would be atypical -- I
11 don't know of any circumstance within the lottery business, or
12 they've been very, very rare, where you have not had either the
13 first four or five years with a potential of one-year extensions
14 where all those extensions have not been exercised.

15 SENATOR AYALA: So, where are we with this current
16 contract?

17 MS. SHARP: The current contract will be up. It was
18 let in 1984, when the Lottery first started. It will be up in
19 October 14th of 1993. We are presently out for bid again with
20 the quest to get as many bidders as possible, qualified bidders.
21 Those bids are due into the Lottery office on February the 17th.
22 We will the have an evaluation committee and an outside
23 consultant that will look at these bids to find us the best
24 qualified bidder, plus the best cost, to put those together, and
25 to award a contract.

26 SENATOR AYALA: I'm not sure the public is aware of
27 the process, because the perception out there is that this
28 company has an in with the Commission; they continue to extend

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that this is crucial for ensuring transparency and accountability in the organization's operations.

2. The second part outlines the various methods and tools used to collect and analyze data. This includes both traditional manual methods and modern digital technologies, highlighting the benefits of each approach.

3. The third part focuses on the role of human resources in the data collection process. It discusses how training and support for staff can significantly improve the quality and reliability of the data collected.

4. The fourth part addresses the challenges and limitations of data collection. It identifies common pitfalls such as incomplete data, errors in recording, and difficulties in accessing certain types of information.

5. The fifth part provides recommendations for overcoming these challenges. It suggests implementing robust data management systems, conducting regular audits, and fostering a culture of data accuracy and integrity.

6. The sixth part discusses the importance of data security and privacy. It outlines the necessary measures to protect sensitive information from unauthorized access and ensure compliance with relevant regulations.

7. The seventh part explores the future of data collection and analysis. It discusses emerging trends such as artificial intelligence, big data, and cloud computing, and how these technologies can be leveraged to enhance data collection efforts.

8. The eighth part concludes the document by summarizing the key findings and reiterating the importance of a systematic and reliable data collection process for the organization's success.

1 the contract beyond their termination date.

2 MS. SHARP: The company, in fact, which we're dealing
3 with is a company named GTECH, which in fact is a very strong
4 company in the lottery business. They have two-thirds of the
5 contracts in the United States, and about two-thirds of the
6 contracts outside.

7 The lottery business is a very small business, and
8 there is only a limited number of potential bidders.

9 Every lottery contract I know, and we're talking
10 about tens of millions of dollars, is so hotly contested, and so
11 rare in the business, that for those of us in the business, we
12 dread more than anything else in the world having to go out for
13 an on-line contract.

14 SENATOR AYALA: There's a small number of bidders.

15 MS. SHARP: Yes.

16 SENATOR AYALA: And apparently you're saying that
17 this is commonplace with all the --

18 MS. SHARP: Yes, this is typical, and because the
19 monies are so large, and the term is fairly long.

20 But you have to understand, I'm not sure of this, but
21 the lottery has probably the biggest telecommunications network
22 in this state. Everything is difficult with us.

23 SENATOR AYALA: The three-year extension that can
24 occur through an amendment by the Commission to the contract --

25 MS. SHARP: Yes, and that is again typical, built
26 into the contract.

27 Our new one going out -- the one in 1984, and
28 somebody yelled back there because I wasn't here then, it was a

1 four-year term, plus three one-year extensions which were
2 exercised at a certain time within -- which is exactly what we
3 did last year. And as you know, the Lottery, we were having our
4 difficulties last year.

5 This one, because it has been the trend in the
6 lottery business, and that is because the system is so large, it
7 is a flat five-year term, plus five one-year extensions which
8 may be exercised at will by the permission of the Lottery
9 Commission.

10 SENATOR AYALA: Coming in, you have this agreement?

11 MS. SHARP: Yes, it is part of the contract, and it
12 is in the RFP proposal. When they are bidding, they -- and
13 generally the reason that's done is, a company who knows that if
14 they do well, they will have a long-term ten-year commitment.
15 Most lottery companies that go in to run a system like this make
16 no money, they're working on their money, for at least the first
17 three and a half years.

18 SENATOR AYALA: Perhaps that's the lack of education
19 of the public that take that position that it looked like, with
20 a minor amendment, you continue with the same contractor for an
21 extension without it going out to bid.

22 MS. SHARP: It's typical rather than atypical.

23 And by the way, and because any lottery director or
24 commission that is not aware of the controversy in this
25 business, we did hire an outside consultant to make sure that
26 our method and our process was absolutely clear. We do have a
27 very respected company, Battelle Memorial Institute, a not-for-
28 profit, that does not work for any private sector company, to in

fact oversee us while we do the process.

SENATOR AYALA: Thank you.

MS. SHARP: And so, we want to make our Commission safe.

SENATOR CRAVEN: I have a question, if you will.

You mentioned the extension periods following the four years, and then you have the potential of additional one year, two years, three years, whatever it may be.

MS. SHARP: Yes.

SENATOR CRAVEN: And I think that the term was used, if they're doing a good job, it would be renewed.

Does that come up before the Commissioners or the Commission for a decision specifically?

MS. SHARP: Yes, it does, sir.

SENATOR CRAVEN: And all of the Commissioners supposedly are voting on this; are they not?

MS. SHARP: Yes.

SENATOR CRAVEN: Suppose -- how many Commissioners do we have?

MS. SHARP: Five.

SENATOR CRAVEN: Suppose two of them said, "I don't know. Maybe we should try somebody else." You know, for some reason whatsoever.

What would happen then? Would that void the opportunity to exercise the option of an additional year?

MS. SHARP: Our Commission vote is a majority vote.

But as the Director, if I knew that the Commissioners had a problem with any company or the way that we were running

1 the Lottery, I'd sure think long and hard about doing it.

2 The Lottery is such a public organization that I
3 would be reluctant, as the Director, if I had any concern
4 whatsoever not to check out alternatives --

5 SENATOR CRAVEN: I see.

6 MS. SHARP: -- before I brought it to the Board.

7 SENATOR CRAVEN: Now, you heard, and you responded
8 very well, to Senator Ayala's question, which I think is rather
9 typical of the lack of knowledge of people out in the
10 electorate, if you will, who have no idea how this thing runs,
11 and that's why they become somewhat suspect, I suppose.

12 Is there anything that occurs to you that you should
13 say to us or to Senator Ayala, more specifically, that would
14 assuage any of the problems that may be out there or have been
15 in the past?

16 MS. SHARP: Are you talking about contracting?

17 SENATOR CRAVEN: Yes.

18 MS. SHARP: I would say, and I'm fairly new to the
19 California process, but I am not new to the lottery business,
20 and as I mentioned before, probably the most controversial
21 business that many say shouldn't be in state government. In
22 fact, I think I've heard it here.

23 The lottery business is a very -- ultimately a very
24 controversial business because of the money involved. I think
25 it's why that we are a bit paranoid about how we run the
26 business. And that is, as I said, the idea of bringing in an
27 outside consultant to have us go through a method and a process.

28 Going out for an on-line bid is not something we just

1 -- we have been preparing to go out for this bid for a full
2 year.

3 SENATOR CRAVEN: I see.

4 MS. SHARP: Our bottom line is profit, and we always
5 look for the most profitable way to do business.

6 An on-line vendor, and the quality of their system
7 -- we don't look at 99 percent; we look at 100 percent -- the
8 quality of their system, their experience, and the price they
9 give are blended together.

10 I don't know how to really convince you or to tell
11 you how much that we look at method and process, but we do,
12 because we realize that what we do has a great impact on our
13 playership.

14 SENATOR CRAVEN: I don't really have to be convinced.

15 I would just like to be able to say to people, you
16 obviously know how this operates, or why it is done the way it
17 is done.

18 MS. SHARP: By the way --

19 SENATOR CRAVEN: I'll be very frank with you. I have
20 a contractor within my district -- used to be; he's not any more
21 -- who wanted to bid on this going in, originally, before you
22 were here. And he obviously didn't make it.

23 And he may be -- although, the corporation's very
24 astute and knowledgeable, and they operate in the Orient, and
25 they do a big business over there, but they don't do a big
26 business at home, and that kind of bothers them a l

1 get a little spooky when they think, well, why can't we get our
2 toe in the door?

3 They have not really complained to me in any
4 vociferous way, but they were originally, of course, very
5 disappointed.

6 And if they come to me and say, "Bill, you know, why
7 do these people continue in there? When do we get a chance to
8 bid again?" I would be somewhat lost for words to say what the
9 reason was.

10 MS. SHARP: I think the part -- it takes us, when we
11 change the system, not only are we impacting what is now 13,000
12 retailers around the state, one of the biggest
13 telecommunications network within the state, when we do a
14 conversion, when we let a contract and the Lottery does a
15 conversion, it takes about six months to do that conversion.
16 So, what we're looking at is -- and it puts us in total -- it
17 uses all of our resources. So, this is something you like to do
18 as rarely as possible.

19 What we have done in this RFP, though, is that we
20 have made it probably more open than any lottery on-line RFP in
21 the country. And that hopes that your friend will bid, and we
22 are looking for as many bidders, because we know that that is
23 going to make us cost competitive.

24 SENATOR CRAVEN: Yes, well, that's very good. All of
25 us appreciate your advice.

26 MS. SHARP: And may I say for the Commissioners,
27 they're all fairly new to the lottery business, but I don't
28 think -- I don't believe there's a stronger Lottery Commission

1 in the United States, and they do keep us on our toes.

2 SENATOR CRAVEN: Very good. Thank you very much.

3 SENATOR BEVERLY: Mr. Chairman, I asked that the
4 Director come forward only to clarify a point.

5 MS. SHARP: This is worse than my confirmation.

6 SENATOR BEVERLY: We're not hearing her
7 confirmation.

8 Thank you.

9 CHAIRMAN ROBERTI: Senator Petris.

10 SENATOR PETRIS: Now that that's been clarified, may
11 I ask the nominee a question?

12 Would your answers be the same as hers if you'd been
13 asked the same questions?

14 MR. CRAMER: It might have been briefer.

15 [Laughter.]

16 SENATOR PETRIS: Thanks.

17 CHAIRMAN ROBERTI: Do we have a motion before us?

18 SENATOR BEVERLY: Move we recommend confirmation.

19 CHAIRMAN ROBERTI: Senator Beverly moves that
20 confirmation be recommended to the Floor.

21 Is there any opposition in the audience or neutral
22 observations?

23 Then the Secretary will call the roll.

24 SECRETARY WEBB: Senator Ayala.

25 SENATOR AYALA: Aye.

26 SECRETARY WEBB: Ayala Aye. Senator Beverly.

27 SENATOR BEVERLY: Aye.

28 SECRETARY WEBB: Beverly Aye. Senator Petris.

1 SENATOR PETRIS: Aye.

2 SECRETARY WEBB: Petris Aye. Senator Craven.

3 SENATOR CRAVEN: Aye.

4 SECRETARY WEBB: Craven Aye. Senator Roberti.

5 CHAIRMAN ROBERTI: Aye.

6 SECRETARY WEBB: Roberti Aye.

7 CHAIRMAN ROBERTI: The vote is five to zero;
8 confirmation is recommended to the Floor.

9 Congratulations.

10 SENATOR AYALA: I'd like to lift the call that
11 pertains to Mr. Apodaca's confirmation.

12 CHAIRMAN ROBERTI: Senator Ayala moves that the call
13 on Daniel Apodaca, Member of the California State Lottery
14 Commission, be lifted.

15 Secretary will call the roll.

16 SECRETARY WEBB: Senator Petris.

17 SENATOR PETRIS: Aye.

18 SECRETARY WEBB: Petris aye. Senator Roberti.

19 CHAIRMAN ROBERTI: Aye.

20 The vote is five to zero; confirmation is recommended
21 to the Floor.

22 The next appointment is that of Mr. Edward L.
23 Lammerding, Member of the California State Lottery Commission.

24 Mr. Lammerding, we will ask you what we ask all the
25 Governor's appointees, why you feel you're qualified to assume
26 this position?

27 MR. LAMMERDING: I've spent the last 40 years in the
28 business and finance industry. I have a reputation as being a

1 rather stern administrator and manager, and I feel I can bring
2 that experience to the Commission of the Lottery.

3 CHAIRMAN ROBERTI: Are there any questions of
4 Mr. Lammerding? Senator Petris.

5 SENATOR PETRIS: Do you get confronted a lot by
6 members of the public when they learn you're a Commissioner on
7 what are you doing with all that money that's supposed to save
8 our schools?

9 MR. LAMMERDING: I didn't hear the first part of your
10 question, Senator.

11 SENATOR PETRIS: When people find out that you're a
12 Commissioner, do they often ask you what are you doing with all
13 that money that's supposed to be going to the schools?

14 MR. LAMMERDING: Well, and I respond that every penny
15 is going to the schools.

16 SENATOR PETRIS: Do you tell them what the percentage
17 is of the budget?

18 MR. LAMMERDING: It's 34 percent under the
19 regulations, and the -- since my tenure on the Commission, we've
20 actually given to the schools a little better than the 34
21 percent.

22 SENATOR PETRIS: No, I mean what that amounts to with
23 respect to the school budget.

24 MR. LAMMERDING: It's a very small part of the school
25 budget overall, but it's important when you look at half a
26 billion dollars.

27 SENATOR PETRIS: Yeah, that's a drop in the bucket
28 for a \$32 billion school budget.

1 Senator Ayala referred to it. It seems to me the
2 public still doesn't realize how it got conned in this whole
3 thing to begin with. And they still think that, having voted
4 for the Lottery and bought some tickets, that that takes care of
5 all the school funding.

6 I would respectfully recommend to you and all the
7 other Commissioners that they try some how to get the message
8 across, even though it was in the official pamphlet where the
9 Legislative Analyst said this is not expected to exceed 4
10 percent of the total school budget. It's actually less.

11 That's a figure that ought to be put out there so
12 they'll know, no matter how much is raised up to now, a half
13 billion dollars is still a very tiny percentage of the total
14 need. Because, they're still angry about that.

15 MR. LAMMERDING: Yes. And I -- all of us members of
16 the Lottery Commission and the Lottery management, we understand
17 that.

18 Lottery staff has done its best through the play
19 cards in the retail establishments, how much money has gone to
20 the local school districts, not just to the schools in
21 California as a whole.

22 And unfortunately, we cannot control the public
23 impression of 2-4 percent versus the 32 billion which you've
24 addressed simply because it's beyond our purview.

25 And I feel, as a member of the Commission, it's our
26 duty to exploit to the maximum the amount of dollars that the
27 Lottery can produce for the schools, at the same time
28 acknowledging that it is really a pittance compared to the total

1 budget. And unfortunately, I don't have a solution to your
2 question, Senator, other than that.

3 SENATOR PETRIS: Well, I see they put out releases
4 from time to time. It seems to me maybe a release, let's say
5 you hit a banner year. Let's say this year is the best year you
6 ever had. And the last line of that announcement should say,
7 "It's still only 4½ percent of the total needs of the school."
8 Keep hammering at that, people will get the message.

9 MR. LAMMERDING: I'm sure we can accommodate that,
10 Senator.

11 SENATOR PETRIS: I think it's a good goal. It's a
12 matter of communicating facts to the public.

13 MR. LAMMERDING: Yes.

14 SENATOR PETRIS: Thank you.

15 CHAIRMAN ROBERTI: Any other questions of
16 Mr. Lammerding?

17 SENATOR CRAVEN: Move.

18 CHAIRMAN ROBERTI: Senator Craven moves confirmation
19 be recommended to the Floor.

20 Is there anyone in opposition or neutral who would
21 like to make some comment?

22 Then the Secretary will call the roll.

23 SECRETARY WEBB: Senator Ayala.

24 SENATOR AYALA: Aye.

25 SECRETARY WEBB: Ayala Aye. Senator Beverly.

26 SENATOR BEVERLY: Aye.

27 SECRETARY WEBB: Beverly Aye. Senator Petris.

28 SENATOR PETRIS: Aye.

The first part of the paper discusses the importance of the study and the objectives of the research. It also mentions the scope of the study and the limitations of the study.

The second part of the paper discusses the methodology used in the study. It mentions the data sources and the data collection methods used in the study.

The third part of the paper discusses the results of the study. It mentions the findings of the study and the conclusions drawn from the study.

The fourth part of the paper discusses the implications of the study. It mentions the practical implications of the study and the theoretical implications of the study.

The fifth part of the paper discusses the limitations of the study. It mentions the limitations of the study and the limitations of the study.

The sixth part of the paper discusses the conclusions of the study. It mentions the conclusions of the study and the conclusions of the study.

The seventh part of the paper discusses the future research. It mentions the future research and the future research.

The eighth part of the paper discusses the references. It mentions the references and the references.

The ninth part of the paper discusses the appendices. It mentions the appendices and the appendices.

1 SECRETARY WEBB: Petris Aye. Senator Craven.

2 SENATOR CRAVEN: Aye.

3 SECRETARY WEBB: Craven Aye. Senator Roberti.

4 CHAIRMAN ROBERTI: Aye.

5 SECRETARY WEBB: Roberti Aye.

6 CHAIRMAN ROBERTI: The vote is five to zero;
7 confirmation is recommended to the Floor.

8 MR. LAMMERDING: Thank you.

9 CHAIRMAN ROBERTI: The next appointment is that of
10 James W. Nielsen, Member of the Board of Prison Terms.

11 Senator Nielsen, why don't you come forward?

12 SENATOR NIELSEN: Mr. Chairman.

13 CHAIRMAN ROBERTI: I think we know you pretty well.
14 Nevertheless, we'll ask you the question --

15 SENATOR NIELSEN: I'm seeking no waivers today.

16 CHAIRMAN ROBERTI: -- why you feel you're qualified
17 to assume this position?

18 SENATOR NIELSEN: The question is, why do I aspire to
19 this particular position?

20 CHAIRMAN ROBERTI: Right.

21 SENATOR NIELSEN: Or why do I enjoy it?

22 CHAIRMAN ROBERTI: Why do you enjoy it, and why do
23 you think you're the person for the job?

24 SENATOR NIELSEN: Well, first of all, I don't think
25 one can say they enjoy hearing the unfortunate kinds of tales
26 that one in the capacity of a Commissioner on the Board of
27 Prison Terms gets to hear.

28 As far as qualifications and understanding, as a

1 Legislator I was very active in the area of crime legislation,
2 as well as very active in various victim's rights efforts in the
3 Legislature. That gave me an awareness and understanding.

4 Likewise, as far as budget battles and debates here
5 that were applicable to Correctional issues, I got regularly
6 apprised on the nuances of those particular issues.

7 The kinds of legal questions that we have to deal
8 with because of that active legislative role that I played, I
9 think, is well-steeped in some of those requirements.

10 I will tell you, it's certainly a hard working
11 Commission. All of the hearings are held at the institutions
12 throughout California, and they are very intense and draining.
13 But I think that the Board serves a noble purpose, and Mr.
14 Chairman and Members, I've enjoyed served on it.

15 CHAIRMAN ROBERTI: Thank you, Senator.

16 Senator Kopp.

17 SENATOR KOPP: Thank you.

18 Mr. Chair and Members of the Committee, I appear here
19 expressly to give expression of my support of the confirmation
20 of Senator Nielsen.

21 I also want to make an observation that the lawyers
22 particularly will appreciate. I don't mean that the non-lawyers
23 stop listening.

24 But I know enough about the work of this Board, and I
25 know enough about Senator Nielsen's application of time and
26 effort to it, to observe that there's probably more time and
27 effort invested, certainly in the actual reading of transcripts,
28 than the average Justice of the California Court of Appeal.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that this is essential for ensuring transparency and accountability in the organization's operations.

2. The second part outlines the various methods and tools used to collect and analyze data. It mentions the use of surveys, interviews, and focus groups to gather information from stakeholders. Additionally, it discusses the application of statistical analysis to interpret the collected data.

3. The third part describes the process of identifying trends and patterns in the data. It highlights the need for a systematic approach to data analysis, involving the identification of key variables and the use of appropriate statistical techniques.

4. The fourth part focuses on the communication of findings. It stresses the importance of presenting the results in a clear and concise manner, using visual aids such as charts and graphs to enhance understanding.

5. The fifth part discusses the implications of the findings for the organization. It suggests that the results should be used to inform decision-making and to develop strategies for improvement.

6. The sixth part provides a summary of the key points discussed in the document. It reiterates the importance of data-driven decision-making and the need for ongoing monitoring and evaluation.

7. The seventh part includes a list of references to the sources used in the research. It cites several academic journals and books on data analysis and organizational research.

8. The eighth part contains a list of appendices, which include additional data, survey questions, and other supporting materials.

9. The ninth part is a concluding statement that expresses the author's confidence in the findings and their potential impact on the organization.

10. The tenth part is a final note or disclaimer, stating that the document is for informational purposes only and should not be used as a basis for legal action.

1 Mr. Nielsen doesn't have a law clerk to do it; he does it
2 himself.

3 It's not particularly one of those positions in
4 California government which makes one the most popular person in
5 California, but Mr. Nielsen brings to it that extraordinary
6 degree of enthusiasm and responsibility which lends itself to my
7 unequivocal request that the Committee recommend his
8 confirmation unanimously.

9 Thank you.

10 CHAIRMAN ROBERTI: Senator Ayala.

11 SENATOR AYALA: Senator Nielsen, we have some 106,000
12 inmates in our prison system in California. We have two Class
13 IV facilities: Folsom and San Quentin.

14 At what capacity are those facilities?

15 SENATOR NIELSEN: Senator, it isn't the purview of
16 the Board of Prison Terms to operate the institutions
17 themselves. Our responsibility relates to the hearing of life
18 prisoner cases, individuals with possibilities of parole.

19 I do not know the figures of the numbers of prisoners
20 at those institutions. There's somewhat over 10,000 individuals
21 in the institutions of around 106,000 total who are prisoners
22 that we consider. Where they are all at, and the numbers at
23 each institution, I really don't know.

24 SENATOR AYALA: But we only have two Class IV
25 institutions.

26 SENATOR NIELSEN: As far as I know, I believe there's
27 one at Pelican Bay also.

28 SENATOR AYALA: Oh, that's correct; you're right.

1 What criteria do you use to determine whether a
2 convicted inmate who's been convicted of murder or rape is
3 suitable for parole? What is it you use as criteria for that?

4 SENATOR NIELSEN: The hearings are very exhaustive.
5 To describe them, an attorney for the prisoner is present.
6 Generally, if the county can fund such, they'll send a deputy
7 district attorney to represent the people.

8 The hearings are comprised of the portion dealing
9 with the life crime itself, crime or crimes for which that
10 individual was given the life term. We talk about that very
11 exhaustively. We review transcripts applicable to prior
12 hearings on this particular case and, as Senator Kopp indicated,
13 various appellate decisions that may have occurred, the
14 sentencing transcript at trial. We go through that exhaustively
15 with the prisoner, prisoner's attorney.

16 We further, then, consider what are called
17 post-conviction factors. That would be everything that the
18 individual has been involved in and/or done, positive and/or
19 negative, since they have been in the institution. Some are
20 very good and rehabilitate; some are very bad actors. Those
21 surely we weigh.

22 Further, we review all of the psychological or
23 psychiatric reports -- and/or psychiatric/psychological reports
24 applicable to that individual by many evaluators over the years,
25 including the one that is current as per the given hearing.

26 We further then explore what are the so-called parole
27 plans. In other words, if the person were given a parole, what
28 would they do? What sort of support system is available to

1 available to them?

2 Those are the elements that we deal with.

3 SENATOR AYALA: How heavy does the testimony of the
4 victim's relatives weigh? Do they have any input? They do have
5 input.

6 SENATOR NIELSEN: I neglected to mention that
7 portion.

8 Victim's family and/or victims do have the
9 opportunity, either directly by personal appearance or through
10 video, they can present either a letter, a video, or personally
11 they can appear. And to assure that they are not intimidated,
12 we allow them to have their comments at the very closing of the
13 hearing, after the district attorney, the prisoner's attorney,
14 and the prisoner have given closing statements as to what they
15 think their suitability may be. Victims then have the
16 opportunity.

17 I would tell you that the panel considers those
18 victim's statements very instructive. They are emotionally
19 charged at times, I assure you, but I think it's important to
20 have the input of victims.

21 SENATOR AYALA: Does the Commission weigh that pretty
22 heavy, what the relatives have to say? Obviously, they're all
23 against releasing this inmate. Do you take that into
24 consideration?

25 SENATOR NIELSEN: I wouldn't necessarily say it's
26 more heavily weighted than any other consideration.

27 SENATOR AYALA: It is or is not?

28 SENATOR NIELSEN: I would not say that it is more

1 heavily --

2 SENATOR AYALA: Okay.

3 SENATOR NIELSEN: -- weighted than any other, because
4 there are many applicable factors that are relevant. And you do
5 have to understand the emotion of victims or victim's families
6 that are involved. It certainly weighs emotionally on one who
7 is evaluating, but I would say maybe it's probably equally taken
8 in our deliberations as to the nature of the life crime itself,
9 and if we have intuited and evaluators have evaluated that this
10 individual has improved themselves [sic] since they have been
11 incarcerated.

12 Not frequently, I might note, do victim's family come
13 and comment. That's irregular; not the norm.

14 SENATOR AYALA: Thank you.

15 CHAIRMAN ROBERTI: Is there anyone here in
16 opposition? I think I have Mr. Morrell's name. Yes, please
17 come forward.

18 MR. MORRELL: Senator Roberti and Members, I don't
19 take any pleasure in coming up here and speaking to you today.

20 It was 10-12 years ago when I sat as a chairman of a
21 volunteer partisan political group and obtained Mr. Nielsen's
22 first, or among the first, endorsements and financial campaigns
23 to his initial candidacy for the office of the Senate.

24 I was very disappointed sometime later when he
25 appeared before the Solano County Central Committee -- or Solano
26 County Taxpayers Association, and responding to my question
27 regarding -- relative to a report in the Los Angeles Times about
28 legislative spending, which was out of hand, Mr. Nielsen became

1 very upset and used some very strong language. And he
2 foolishly, in my opinion, wrote a letter to one of my colleagues
3 reiterating in writing what he said in public. And he said
4 that:

5 "There is no unaudited fund. There is a
6 Senate contingency fund under strict
7 scrutiny of the Department of Finance."

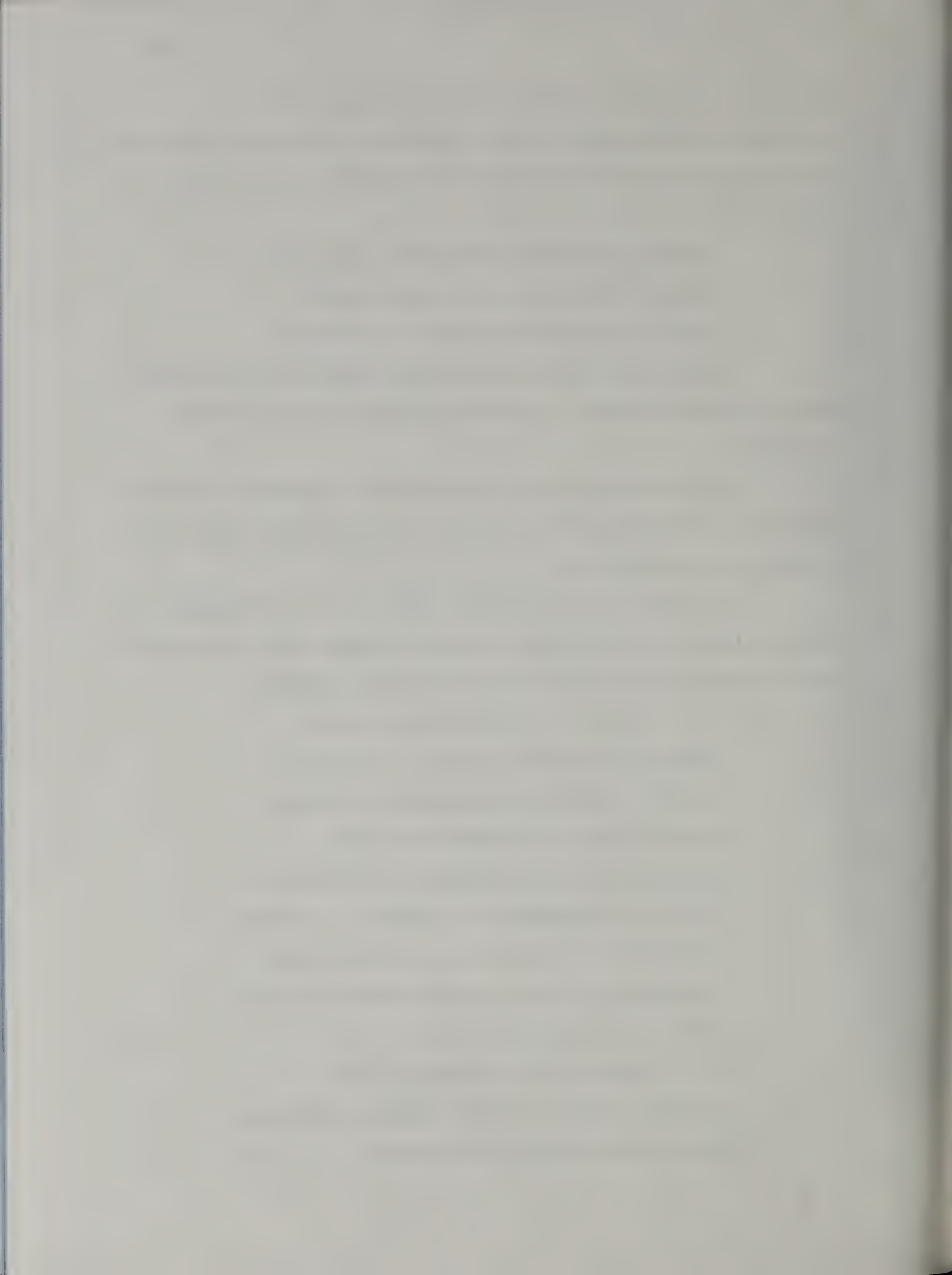
8 And I went immediately to the Department of Finance
9 and got a letter saying, in essence, that that was a false
10 statement.

11 Mr. Nielsen never retracted that statement, and for
12 something on the order of a decade, an organization was formed
13 to get that under control.

14 At the early part of the program, I was engaged in a
15 reform effort with a volunteer group, and when they discovered
16 what Mr. Nielsen had done, they wrote him a letter:

17 "I write to advise you of the
18 unanimous decision of the ... Executive
19 Council, effective immediately, that you
20 be terminated as a member of [the] ...
21 Legislative Advisory Council and further,
22 that your endorsement of [our] ... Consent
23 Initiative be rejected as insincere and
24 unsupported by your actual behavior in an
25 office of high public trust.

26 "Specifically, Senator, that
27 behavior within the past several weeks has
28 been characterized by deliberate



1 distortion of the truth and, in at least
2 one instance, utterance -- in writing --
3 of blatant falsehood with respect to the
4 use and misuse of some 67½ million of tax
5 dollars allocated ... to the so-called
6 [Legislative] Contingency funds

7 "You have stated in writing that
8 both funds are '... under the strict
9 scrutiny [of] the Department of Finance.'
10 To the contrary, the Deputy Director ...
11 has responded, also in writing, that
12 '[the] Senate and Assembly contingent
13 funds are exempt from the ... accounting
14 controls of [that] department.'"

15 And it goes on.

16 I was very frankly, and I also regret saying this,
17 I'm very surprised that Senator Quentin Kopp came up here and
18 made this endorsement for the very reason that, working in
19 consort with me, he gained his office in the Senate in part by
20 denouncing what he called and what I called the legislative
21 slush fund, defended by his opponent, Assemblyman "Leadfoot
22 Lou" Papan.

23 I could go on. I think you have all of the letters
24 that I've sent to you.

25 CHAIRMAN ROBERTI: Yes, we have them on file.

26 MR. MORRELL: And others.

27 I want to call to your attention particularly, a
28 little cynical, by Mrs. Ann Klink of Vacaville, who FAXed it

1 over to you this morning. She said something to the effect that
2 if you make this appointment, it's a question of it takes one to
3 know one, or words to that effect.

4 CHAIRMAN ROBERTI: We've been accused of worse.

5 MR. MORRELL: I also want to call your attention to
6 the fact, Senator Petris, that during the period in which we
7 were undertaking this endeavor, the Alameda County Grand Jury
8 wrote in their second appeal to get a handle on this fund and
9 said they recommended that a State Grand Jury be established to
10 indict lawmakers who engage in conduct -- improper conduct such
11 as this.

12 I could go on for a lengthy period of time. I think
13 the Members of this Board, this Commission, this Committee are
14 well aware that Senator Nielsen acted with the highest deceit.
15 For an extended period of time, he made an effort of passing
16 several bills, or a show of it, but he never did do anything
17 firmly with it. He never came to people who would -- might have
18 supported and worked it out with him to get a bill that would do
19 anything. He got one bill passed. The newspaper and his
20 constituency said, when it got through, it was toothless, and it
21 was.

22 Finally, as the Senator is aware, it was through the
23 office of this Committee, Chaired by Senator Roberti, we finally
24 got a bill through, some seven or eight years later.

25 Had Senator Nielsen looked at the situation, come
26 back and made a statement that he had made a mistake, and taken
27 a handle on this, we could have precluded this decade of
28 endeavors, which, incidentally, Matthew Fong wrote in a

1 published letter, caused and was responsible for the fiscal
2 element of Proposition 140, and arguably, to its adoption by a
3 52-48 percent margin.

4 So, I suggest it's just possible that had this
5 condition been handled ten years ago, there would have no Prop.
6 140 causing all these people to bail out, and \$500,000
7 taxpayers' money paid for new elections to get new people in,
8 and it goes on.

9 Any questions?

10 CHAIRMAN ROBERTI: Thank you, Mr. Morrell.

11 Any questions of Mr. Morrell?

12 I think it's important to note that the points which
13 you addressed were responded to, as you indicated, in
14 legislation and accompanying resolution.

15 SENATOR NIELSEN: Mr. Chairman, I might note, I did
16 -- subsequent to these times that Mr. Morrell, by his
17 recollection, comments upon, I did carry the only, at that
18 point, successful legislation that enhanced the scrutiny of this
19 particular issue. And later, along with Senator Kopp and the
20 lead author, Senator Roberti, was principle co-author of the
21 measure that seemed to be very much at the time to the suiting
22 of Mr. Morrell.

23 MR. MORRELL: Some eight years later. And the bill
24 that was first introduced and passed was declared by constituent
25 newspapers to be toothless, and it was.

26 Thank you very much.

27 CHAIRMAN ROBERTI: Is there anyone else in the
28 audience in opposition or with observations to make?

The first part of the paper discusses the importance of the study of the history of the United States. It is argued that a knowledge of the past is essential for a full understanding of the present. The author then goes on to discuss the various factors that have shaped the development of the United States, including the role of the government, the economy, and the culture. The author concludes by stating that the study of the history of the United States is a task of great importance, and that it is one that should be undertaken by all who are interested in the future of the country.

The second part of the paper discusses the role of the government in the development of the United States. It is argued that the government has played a central role in the shaping of the country, and that its actions have had a profound impact on the lives of its citizens. The author then goes on to discuss the various ways in which the government has shaped the country, including through its policies, its laws, and its actions. The author concludes by stating that the government is a powerful force in the development of the United States, and that it is one that should be carefully monitored and controlled.

The third part of the paper discusses the role of the economy in the development of the United States. It is argued that the economy has played a central role in the shaping of the country, and that its actions have had a profound impact on the lives of its citizens. The author then goes on to discuss the various ways in which the economy has shaped the country, including through its production, its distribution, and its consumption. The author concludes by stating that the economy is a powerful force in the development of the United States, and that it is one that should be carefully monitored and controlled.

The fourth part of the paper discusses the role of the culture in the development of the United States. It is argued that the culture has played a central role in the shaping of the country, and that its actions have had a profound impact on the lives of its citizens. The author then goes on to discuss the various ways in which the culture has shaped the country, including through its values, its beliefs, and its customs. The author concludes by stating that the culture is a powerful force in the development of the United States, and that it is one that should be carefully monitored and controlled.

1 Then do I hear a motion?

2 SENATOR CRAVEN: Move.

3 CHAIRMAN ROBERTI: Senator Craven moves that the
4 confirmation of Senator Nielsen be recommended to the Floor on
5 the Board of Prison Terms.

6 Secretary will call the roll.

7 SECRETARY WEBB: Senator Ayala.

8 SENATOR AYALA: Aye.

9 SECRETARY WEBB: Ayala Aye. Senator Beverly.

10 SENATOR BEVERLY: Aye.

11 SECRETARY WEBB: Beverly Aye. Senator Petris.

12 SENATOR PETRIS: Aye.

13 SECRETARY WEBB: Petris Aye. Senator Craven.

14 SENATOR CRAVEN: Aye.

15 SECRETARY WEBB: Craven Aye. Senator Roberti.

16 CHAIRMAN ROBERTI: Aye.

17 SECRETARY WEBB: Roberti Aye.

18 CHAIRMAN ROBERTI: The vote is five to zero;
19 confirmation is recommended to the Floor.

20 SENATOR NIELSEN: Mr. Chairman, it's a pleasure to
21 appear before the esteemed body again.

22 CHAIRMAN ROBERTI: Congratulations.

23 [Thereupon this portion of the
24 Senate Rules Committee hearing
25 was terminated at approximately
26 2:45 P.M.]

27 --oo0oo--
28

The first part of the paper discusses the importance of the study and the objectives of the research. It then proceeds to a literature review, followed by a description of the methodology used in the study. The results of the study are presented in the next section, followed by a discussion of the findings and their implications. The paper concludes with a summary of the main points and a list of references.

The study was conducted in a laboratory setting, using a series of experiments to measure the effects of the treatment on the response of the subjects. The results of the study are presented in the following table:

Experiment	Response	Significance
1	High	Significant
2	Medium	Significant
3	Low	Significant
4	High	Significant
5	Medium	Significant
6	Low	Significant

The results of the study indicate that the treatment has a significant effect on the response of the subjects. The response is highest in the first experiment and lowest in the third experiment. The response is also significantly different in the other experiments.

The study has several limitations, including the small sample size and the lack of a control group. However, the results of the study are consistent with the findings of other studies in the field.

The study has several implications for practice. First, the results of the study suggest that the treatment is effective in improving the response of the subjects. Second, the results of the study suggest that the response is highest in the first experiment and lowest in the third experiment. Third, the results of the study suggest that the response is also significantly different in the other experiments.

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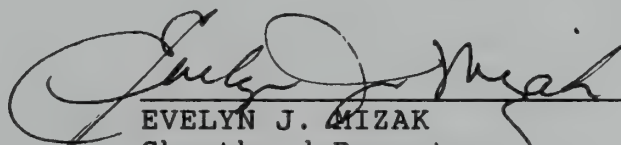
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I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of February, 1993.


EVELYN J. MIZAK
Shorthand Reporter

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HEARING
SENATE RULES COMMITTEE
STATE OF CALIFORNIA



STATE CAPITOL
ROOM 113
SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 17, 1993
1:50 P.M.

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SENATE RULES COMMITTEE

STATE OF CALIFORNIA

HEARING

STATE CAPITOL

ROOM 113

SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 17, 1993

1:50 P.M.

Reported by:

Evelyn J. Mizak
Shorthand Reporter

APPEARANCESMEMBERS PRESENT

1
2
3 SENATOR DAVID ROBERTI, Chair

4 SENATOR WILLIAM CRAVEN, Vice Chair

5 SENATOR RUBEN AYALA

6 SENATOR ROBERT BEVERLY

MEMBERS ABSENT

7
8 SENATOR NICHOLAS PETRIS

STAFF PRESENT

9
10 CLIFF BERG, Executive Officer

11 PAT WEBB, Committee Secretary

12 RICK ROLLENS, Consultant on Bill Referrals

13 NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

14
15 JOHN W. RICE, JR., Member
Board of Governors
California Community Colleges

16
17 SENATOR REBECCA MORGAN

18 RONNY J. COLEMAN
State Fire Marshal

19 DAN COFFMAN, President
20 California State Firefighters Association

21 BRIAN HATCH
California Professional Firefighters

22 WALLY HURST, Assistant General Manager and Legislative
23 Advocate
California State Firefighters Association

24 JAMES M. STUBCHAER, Member
25 Water Resources Control Board

26 ROBERT J. WEST, Director
Office of Real Estate Appraisers

27
28

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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

SENATOR CRAVEN: Next we have Governor's Appointees appearing today. First is John W. Rice, Jr., Member of the Board of Governors of the California Community Colleges.

With Mr. Rice is Senator Morgan, who, I presume, is going to make some introductory remarks.

SENATOR MORGAN: Thank you, Senator Craven and Members.

Just very briefly because I know you have resumes before you, but I wanted to take this opportunity to come and introduce to you one of my favorite constituents, John Rice, who retired into my district, and yet never did retire. He has been a minister, been a school administrator, has taught in the classroom, but instead of retiring and taking it easy, he has come back not only to serve on the Community College Board of Trustees, but for me and the constituency that I represent, very importantly has established a group within the East Palo Alto community to get parents involved more with their children, and to have these young people doing homework after school in a safe, directed environment.

So, I think you have before you someone that understands the education system; understands the needs of our young people, and particularly our college students.

And just as importantly, I think, has raised a daughter who is a fine musician. And you may know her also as President Bush's Soviet Union specialist when it was still called the Soviet Union, and is back now teaching at Stanford,

1 but a very fine daughter that I've come to know and enjoy both
2 for her skills and her friendship.

3 With that, I'm sure Mr. Rice is available to the
4 questions that you always ask, but I did want to take this
5 opportunity to share with you how proud I am of Mr. Rice, and
6 ask for your confirmation of his appointment.

7 SENATOR CRAVEN: Thank you very much, Senator Morgan.

8 Mr. Rice, we will ask, as we ask all of the nominees,
9 why you feel you are qualified for this appointment?

10 MR. RICE: Well, education has been the thing that I
11 have worked with all of my life. I have been a Presbyterian
12 minister, which I have recently retired.

13 But in my lifetime as an educator, I have worked in
14 all facets of education, from kindergarten on through the upper
15 level college programs.

16 I was able to bring Head Start programs in Alabama.
17 I served -- I have served as the Dean of Students at Denver
18 University, as the Associate Dean of the College of Arts and
19 Sciences, and as Vice Chancellor for Human Resources at Denver
20 University.

21 I've worked with the United Negro College Fund.
22 Well, many other things.

23 But I do hold degrees: Bachelor's Degrees in
24 Divinity and in Arts and Sciences; a Master's Degree in Arts and
25 Sciences with an emphasis placed on Student Personnel
26 Management. That, plus all of the years of working with
27 students, I have an honorary Doctorate degree given to me for
28 sending literally hundreds of young people to college and

1 gaining scholarships, and et cetera, for them.

2 I think that these are the things which -- that, plus
3 a very definite desire to help young people to go to college. I
4 feel that this the way into the system, and I feel as if what
5 they need to do is get into the system and to succeed in the
6 system. By so doing, I would think that we can solve many of
7 the problems which we have in America today.

8 SENATOR CRAVEN: Thank you very much, sir.

9 Is there anyone in the audience who wishes to speak
10 in favor of the nominee? Anyone who wishes to speak in
11 opposition? There appears to be none.

12 SENATOR AYALA: Question.

13 SENATOR CRAVEN: Senator Ayala.

14 SENATOR AYALA: Mr. Rice, as you well know, our
15 educational system, just like all of government, is having
16 problems financing itself.

17 What do you think of the Governor's proposal to
18 increase the fees for community college students from roughly
19 \$10 to \$30 in order to help balance the budget?

20 MR. RICE: Sir, it's one thing which is certain:
21 there are less dollars laying around.

22 SENATOR AYALA: I'm sorry, I didn't hear you?

23 MR. RICE: There are fewer dollars all over the
24 world. And as there are fewer dollars, it's going to have to be
25 an awful lot of responsibility placed in other places.

26 I feel as if there probably has to be a change. I
27 have lived in many, many places in America, and we do have
28 probably one of the lowest educational systems. As a matter of

1 fact, when I was pastoring, I had nine members to leave Alabama
2 and come to California just so one little girl could get a free
3 education out here.

4 So, these are the kinds of things. People are
5 descending on us from everywhere out here.

6 So, it would seem to me as if there is going to have
7 to be some kind of change in our educational scale. To say \$30,
8 I'm not in a position to say that, but there is going to have to
9 be some kind of change, and a change because the whole economic
10 world and our country is changing, too.

11 SENATOR AYALA: A lot of us consider the community
12 college a pivotal segment of our educational system, where many
13 times, students who maybe aren't mature enough to go to a four-
14 year college, but they can stick around home, and just like they
15 were in high school, and maybe two years later they're mature
16 enough to attempt to go into a four-year college. So, we know
17 that that's extremely important.

18 But to charge them \$30 per unit, it's almost like
19 excluding these folks that cannot afford to continue their
20 education.

21 Would you agree that if you're going to increase the
22 fees by the amount, that some provisions for loan, or for work
23 for the students could be provided so they can pay for it?
24 Their folks can't pay for it many times. These are kids that go
25 from the community, and they're really in the lower economic
26 ladder, you know, of our society, and they cannot afford to go
27 to a four-year college, but maybe two years later they can.

28 If you start increasing their fees, it's an exclusive

1 movement. These people cannot get involved, so you should
2 provide some way of loan that they can work out, or work at
3 school, you know, and deferred maintenance or something. I
4 think the unions would get angry at me when I say that, but make
5 sure that these people are not left out simply because they
6 cannot afford the \$30 per unit.

7 Do you agree to that?

8 MR. RICE: I will agree, sir, that we must find some
9 way of making sure that there is access to education in California
10 for everybody. And in order to do this, I would agree with you
11 that there must be some measures taken to offset the heightened
12 tuition.

13 SENATOR AYALA: You know, the community colleges,
14 just like our four-year colleges, are to the point they cannot
15 accept any more students.

16 What criteria would you use to eliminate some of
17 these students from attending when you have more than you can
18 handle, or can accept, at the community colleges?

19 MR. RICE: As I have looked at the community college
20 system, I think that there is a possibility that access would
21 have to be scrutinized a little bit stronger in order to make
22 sure that the students who are entering are capable of
23 completing the two years and, hopefully, the four years.

24 I know that in one state I've lived, Alabama, we have
25 what is known as trade schools, which means that maybe the
26 Spanish and German and Russian, and et cetera, isn't asked of
27 these students, but they are expected to learn a trade so that
28 they can take care of themselves.

1 So, maybe, and it's just a possibility. I don't know
2 what the dropout rate is; I don't know what the rate is of
3 students who really can't compete in junior college. But this
4 is one thing we should look at.

5 SENATOR AYALA: Do you have any idea what criteria
6 would you use if you had more, and you probably will have more
7 students than you can handle or accept? What criteria would
8 you use to accept students, and those that you wouldn't accept?
9 Is there anything you think should be used?

10 MR. RICE: As I've indicated, those who can't be
11 accepted --

12 SENATOR AYALA: Those who what?

13 MR. RICE: That can't be accepted. They can't be
14 accepted because maybe they don't have the capability to really
15 work with all of the junior college askings, a strict straight
16 trade school for these people. We've got -- they've got to live
17 here, and in a capitalistic system, they have got to be able to
18 compete. If you can't compete in capitalistic system, you're
19 sort of dead.

20 So, I think we could come up with some type of
21 training, or trades, something which will help them to support
22 and maintain themselves. If we don't get that, we get caught on
23 welfare and this type of thing.

24 SENATOR AYALA: Thank you.

25 SENATOR CRAVEN: Senator Beverly.

26 SENATOR BEVERLY: No questions, but I'm prepared to
27 move we recommend confirmation.

28 SENATOR CRAVEN: Senator Beverly moves. Call the

1 roll.

2 SECRETARY WEBB: Senator Ayala.

3 SENATOR AYALA: Aye.

4 SECRETARY WEBB: Ayala Aye. Senator Beverly.

5 SENATOR BEVERLY: Aye.

6 SECRETARY WEBB: Beverly Aye. Senator Petris.

7 Senator Craven.

8 SENATOR CRAVEN: Aye.

9 SECRETARY WEBB: Craven Aye. Senator Roberti.

10 SENATOR CRAVEN: Mr. Rice, I think we'll keep the
11 roll open. Senator Roberti may be with us a little later in the
12 meeting -- I don't think that Senator Petris will -- but we'll
13 pick up another vote. You have enough right now, but we get as
14 many as we can in this business. So, if you will bear with us,
15 that's what we'll do.

16 Thank you; congratulations.

17 Thank you, Senator Morgan.

18 Next is Ronny J. Coleman, State Fire Marshal.

19 Mr. Coleman, we will ask you, as we asked the others,
20 to state why you feel that you are qualified for this position?

21 CHIEF COLEMAN: Yes, Senator.

22 I've been in the fire service approximately 32 years,
23 having shared the experiences of working for both U.S. Forest
24 Service, Park Service, and then three municipalities in Orange
25 County, California.

26 And in that 32 years of service, I've done basically
27 two things. One is to be involved in the spectrum of activity
28 in the fire service, from code enforcement, through the training

1 and education and delivery system, and then simultaneously,
2 obtaining an educational background consisting of a Fire Science
3 Degree, a Political Science Degree, and I'm currently completing
4 my Master's Degree in Training and Education, Vocational
5 Education.

6 During that 32 years, I've been extensively involved
7 in both community activities from both local jurisdiction and
8 statewide activities, and I believe that I have a fairly good
9 understanding of the issues of the State Fire Marshal's Office,
10 the relationship between the state and local jurisdictions in
11 enforcement of those rules, and the relationship with the fire
12 service.

13 I believe those have prepared me for fulfilling this
14 position.

15 SENATOR CRAVEN: Very good.

16 Is there anyone in the audience who would wish to
17 speak in favor of this appointment? If you would, come forward,
18 please. State your name for the record.

19 MR. COFFMAN: My name is Dan Coffman, C-o-f-f-m-a-n.

20 SENATOR CRAVEN: Sit down, Dan, and relax and take it
21 easy.

22 MR. COFFMAN: Well, I've written a few notes.

23 Mr. Chairman, Committee Members, ladies and
24 gentlemen, my name is Dan Coffman. And I'm a Chino Valley
25 Firefighter in Senator Ayala's district.

26 SENATOR AYALA: I thought you had a lot of class when
27 I first looked at you.

28 [Laughter.]

1 MR. COFFMAN: I'm President of the California State
2 Firefighters Association, which is the largest and most
3 representative fire service organization in California. And I'm
4 currently the Vice Chair of the State Board of Fire Services,
5 which is the state board that Chief Coleman presides over.

6 I'm pleased to come in support of the confirmation of
7 Chief Coleman for the California State Fire Marshal's position.
8 I've known Chief Coleman for nearly 20 years, and have a great
9 appreciation for the impact that has personally had on the fire
10 service in California, throughout the country, and actually
11 internationally. He's well known throughout the world.

12 As State Fire Marshal, he, particularly in these
13 economic times, has had a tremendous impact, positive impact, on
14 the State Fire Marshal's Office and the fire service in general.

15 My remarks will be limited, because you have his
16 resume. You should know his credentials and support.

17 But I would just to ask for your aye vote and
18 confirmation of Chief Ron Coleman for California State Fire
19 Marshal.

20 Thank you very much.

21 SENATOR CRAVEN: Thank you very much, sir.

22 Is there someone else? State your name.

23 MR. HATCH: Thank you, Mr. Chairman.

24 Brian Hatch on behalf of the California Professional
25 Firefighters.

26 I'll be brief. I'm here on behalf of Dan Terry,
27 President of the California Professional Firefighters, who
28 wanted to be here but is at the economic conference down in Los

1 Angeles today.

2 And just indicate that in our association with
3 Mr. Coleman, we find him to be a very honorable, forthright, and
4 a very knowledgeable person in the area of fire protection and
5 fire prevention related issues.

6 It gives me pleasure to indicate that we also support
7 Mr. Coleman's confirmation.

8 Thank you.

9 SENATOR CRAVEN: Thank you very much, Brian.

10 Yes, sir. State your name for the record, please.

11 MR. HURST: Mr. Chairman and Members, Wally Hurst.
12 I'm the Assistant General Manager and the Legislative Advocate
13 for the California State Firefighters Association.

14 I just want to add our strong support as an
15 Association for Ron. Having worked for Ron Coleman, having
16 known Ron Coleman, having read the works of Ron Coleman, you
17 have before you a very highly qualified, innovative, highly
18 qualified individual to run the State Fire Marshal's Office.
19 Every agency in California needs his leadership and management
20 skills, and we're very, very happy to add all of our
21 endorsements, as well as the other ones you have gotten.

22 As you look over his resume, it's very obvious that
23 he's the right person for the job.

24 I'm here representing my General Manager, Eldon
25 Nagle, who is here and indicates his support. He's known Ron
26 even longer than I have.

27 Thank you.

28 SENATOR CRAVEN: Thank you very much, sir.

1 Anyone else? There appears to be no one.

2 Senator Ayala.

3 SENATOR AYALA: Mr. Coleman, all the indications I
4 have are that you're a highly qualified person for the position
5 you're seeking.

6 Your biographical outline shows that you're the
7 President of Phenix Technology, a manufacturer of fire helmets.

8 Do you envision any conflict of interest with your
9 position in the state and this firm that you're the President
10 of?

11 CHIEF COLEMAN: Yes, I do. In fact, as a matter of
12 course, as soon as I was notified that I was candidate for this
13 position, I resigned my presidency of that and divested myself
14 of any financial interest in the corporation. I've made the
15 necessary legal transfers and removed myself from having any
16 ability to interact with that corporation during the period of
17 time I'm working here.

18 SENATOR AYALA: Very good, thank you.

19 SENATOR BEVERLY: Move we recommend confirmation.

20 SENATOR CRAVEN: Senator Beverly moves. There being
21 no further objection, call the roll, please.

22 SECRETARY WEBB: Senator Ayala.

23 SENATOR AYALA: Aye.

24 SECRETARY WEBB: Ayala Aye. Senator Beverly.

25 SENATOR BEVERLY: Aye.

26 SECRETARY WEBB: Beverly Aye. Senator Petris.
27 Senator Craven.

28 SENATOR CRAVEN: Aye.

1 SECRETARY WEBB: Craven Aye. Senator Roberti.

2 SENATOR CRAVEN: Three-zero, which is out.

3 Congratulations, Ron.

4 CHIEF COLEMAN: Thank you very much, sir.

5 SENATOR CRAVEN: I should tell those of you in the
6 audience that Mr. Coleman shares a bond with the three Members
7 that you see seated up here. We're all Marines. So, you had it
8 pretty well greased going in, I think.

9 [Laughter.]

10 CHIEF COLEMAN: And as I remember correctly, Senator,
11 when I walked out of your office yesterday, in the discussion,
12 the last two words we exchanged, I feel compelled to repeat
13 today: Semper Fi.

14 SENATOR CRAVEN: That's right.

15 SENATOR BEVERLY: The roll will be kept open, I
16 assume?

17 SENATOR CRAVEN: Yes.

18 Next is Mr. James M. Stubchaer, Member, Water
19 Resources Control Board.

20 Did I pronounce your name correctly?

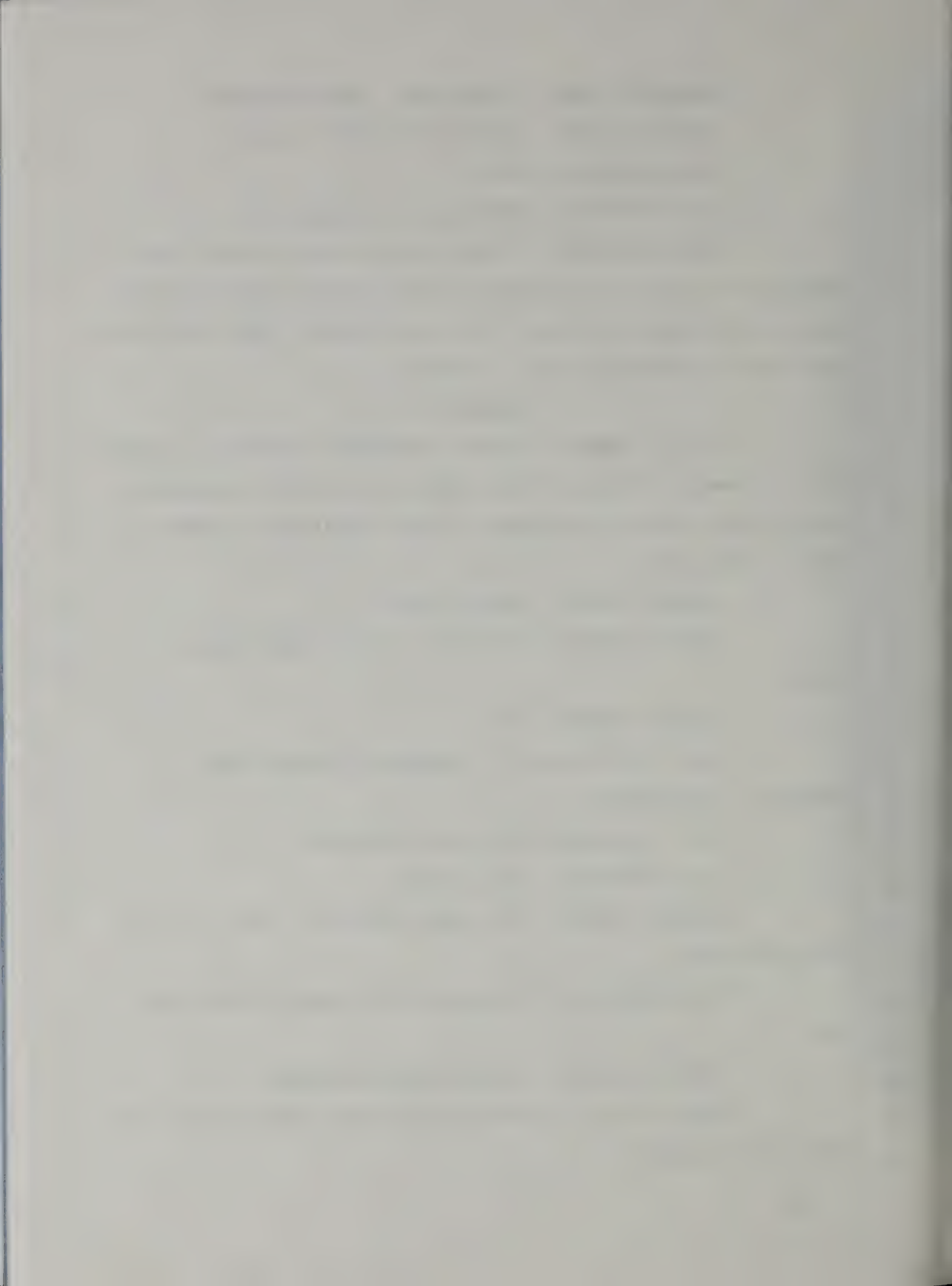
21 MR. STUBCHAER: Yes, you did.

22 SENATOR CRAVEN: Very good, thank you, sir. It's a
23 little different.

24 MR. STUBCHAER: Most people don't get it the first
25 time.

26 SENATOR CRAVEN: I can understand that.

27 Would you tell us why you feel you are qualified for
28 this position, sir?



1 MR. STUBCHAER: I'll try.

2 Two of the five members of the Water Resources
3 Control Board are required to be engineers. I occupy one of
4 those seats.

5 I am a licensed civil engineer in California. I have
6 a Bachelor's and a Master's degree in Civil Engineering from the
7 University of Southern California, and another year's
8 postgraduate work in hydraulics engineering from Delft
9 Technological University in The Netherlands.

10 I worked 30 years for the Santa Barbara County Flood
11 Control and Water Conservation District, most of it as its
12 manager. I also managed the Santa Barbara County Water Agency
13 for ten concurrent years.

14 After leaving the Flood Control District, I was a
15 private consultant on water matters until I was appointed to
16 this Board.

17 I served on -- two terms on the Central Coast
18 Regional Water Quality Control Board, and three years on the
19 California Water Commission, again, resigning when I was
20 appointed to this Board.

21 I hope that this training and experience qualify me
22 to be a member of the Board.

23 SENATOR CRAVEN: Very good, thank you very much, sir.

24 Is there anyone in the audience who wishes to speak
25 in favor of this nominee? Anyone opposed? There appears to be
26 none.

27 Senator Ayala.

28 SENATOR AYALA: I'd like to ask the candidate here,

1 that area that I represent, there are a lot of dairies. We get
2 problems with nitrates into the underground basin.

3 Is there anything that the Control Board is doing to
4 eradicate that problem?

5 MR. STUBCHAER: Nitrates are probably the most
6 significant contaminant in groundwater in California. And there
7 have been a combination of things which have been done. One is
8 shutting down some wells, or deepening wells to an aquifer which
9 is not contaminated. Either doing ion exchange or reverse
10 osmosis treatment of the water to remove the nitrates. Those
11 are measures which kind of treat the problem. They don't
12 prevent it from happening.

13 There are studies under way in several Cal. EPA
14 agencies, including the Water Board, trying to define the
15 problem, prevent it from spreading and reoccurring.

16 Where it already exists, it's quite difficult to
17 treat it, other than as I just mentioned.

18 SENATOR AYALA: I think it's called the Three Valleys
19 Water District down in my area, has a reverse osmosis plant in
20 Laverne.

21 Are you familiar with that?

22 MR. STUBCHAER: No, I'm not.

23 SENATOR AYALA: They brought it in from Switzerland,
24 I understand, and for that purpose of nitrates. I understand
25 they're doing a good job with it. I just wondered if you were
26 familiar with that.

27 MR. STUBCHAER: No. I know that process will do a
28 good job, but it's expensive.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that this is essential for ensuring transparency and accountability in the organization's operations.

2. The second part outlines the specific procedures and protocols that must be followed when recording transactions. This includes details on how data should be collected, stored, and reviewed to ensure its integrity and reliability.

3. The third part addresses the role of the management team in overseeing the record-keeping process. It stresses that management is responsible for ensuring that all staff are properly trained and that the necessary resources are provided to support the system.

4. The fourth part discusses the potential risks and challenges associated with poor record-keeping practices. These can include data loss, inaccuracies, and a lack of transparency, which can all have significant negative impacts on the organization's performance and reputation.

5. The fifth part provides a summary of the key points discussed in the document and offers recommendations for how the organization can improve its record-keeping practices. It encourages a proactive approach to maintaining records and suggests regular audits to ensure compliance with the established protocols.

1 SENATOR AYALA: Would you take a look at that and see
2 what you think about that process and the effectiveness of that
3 process?

4 MR. STUBCHAER: I'd be happy to.

5 SENATOR AYALA: Thank you.

6 SENATOR BEVERLY: Move we recommend confirmation.

7 SENATOR CRAVEN: Senator Beverly moves.

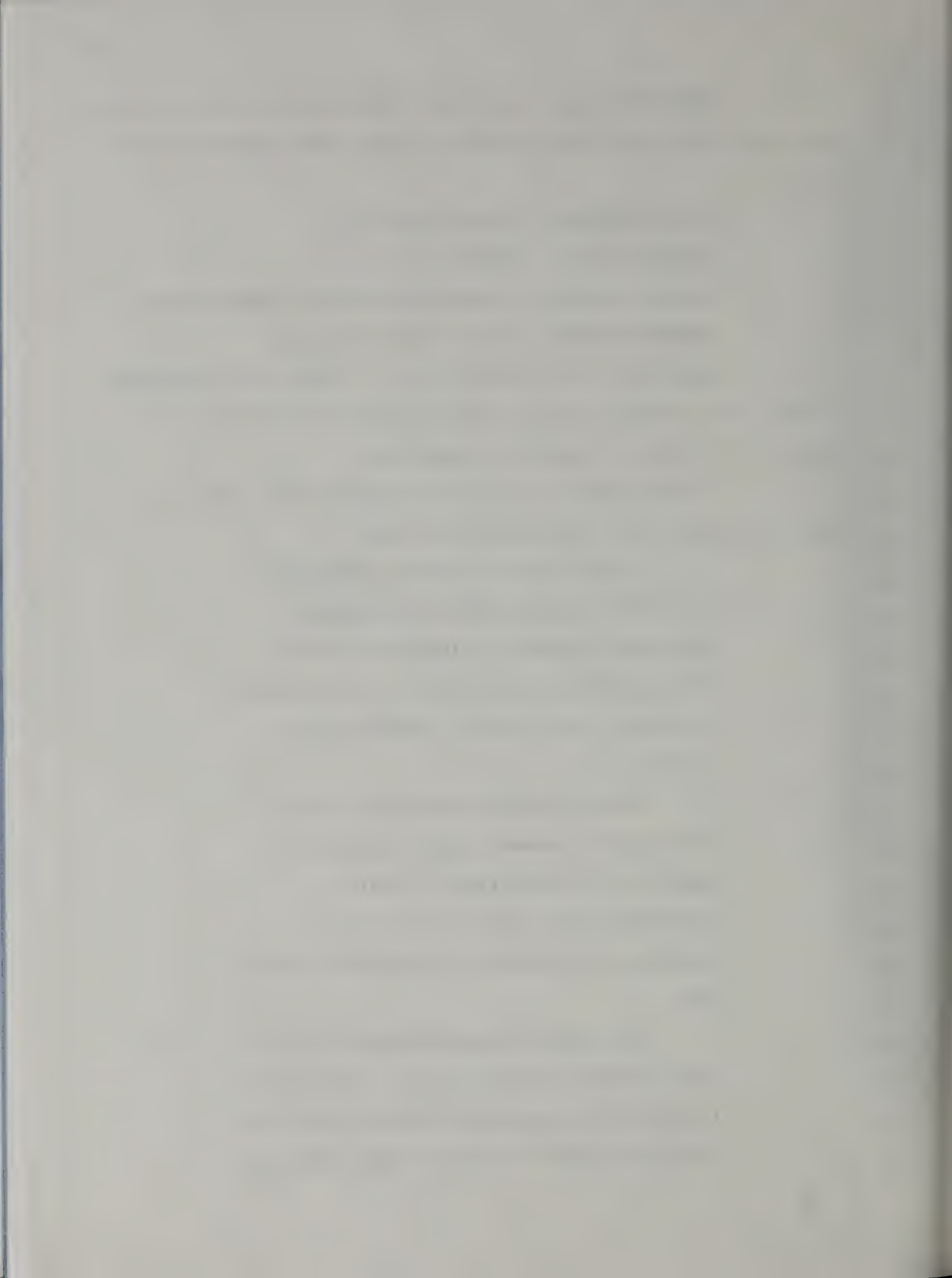
8 Before we go to vote on that, I have, Mr. Stubchaer,
9 a letter from Senator Hayden which he wants to include in the
10 record, and he asks a couple of questions.

11 I will read this to you so the response which you
12 give, of course, we'll have on the record:

13 "I had hoped to attend personally
14 tomorrow's hearing before the Senate
15 Committee on Rules to learn more about
16 your qualifications to serve the people of
17 California, but now will be unable to
18 attend.

19 "There are the questions I would
20 have asked. Assuming your nomination is
21 passed out of committee, I would
22 appreciate your sharing with me your
23 responses in advance of the Senate floor
24 vote.

25 "In light of your background as a
26 supply-side purveyor of water, how do you
27 interpret the meaning of public trust and
28 how do you perceive Public Trust Doctrine



1 influencing your decisions on the Board?

2 "In the past, many water allotments
3 were made at the expense of the
4 environment, but the Audubon and Racanelli
5 decisions require equal treatment of the
6 environment and people. How will you
7 interpret the concept of equal treatment
8 in balancing water allocations and public
9 trust issues?

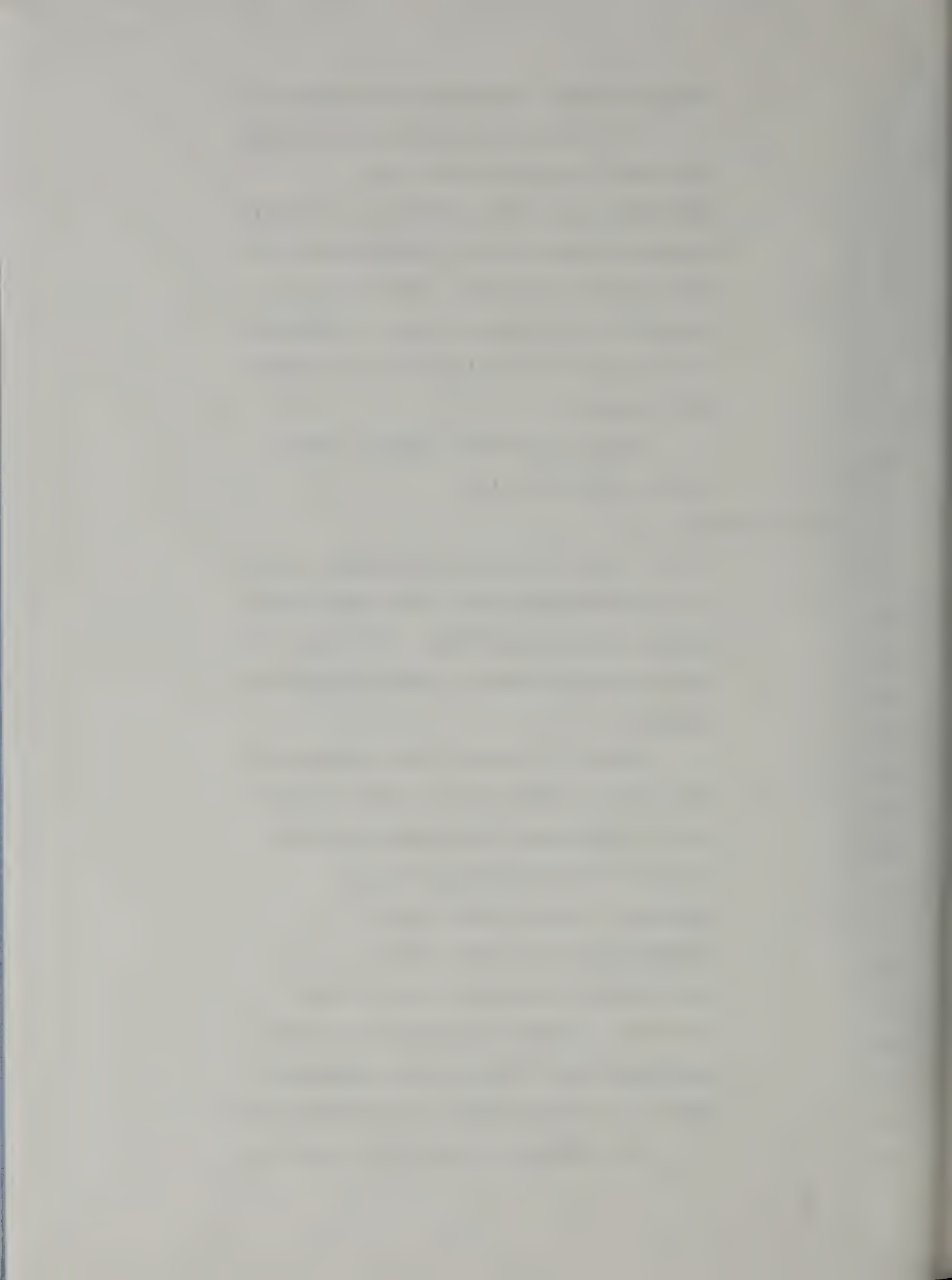
10 "State and federal policy toward
11 wetland protection is ... "

12 and he quotes,

13 "'no net loss in value or acreage,' yet it
14 is my understanding that the Board has no
15 wetland policy at present. What role will
16 you take in developing a wetland policy on
17 the Board?

18 "Under the federal Clean Water Act,
19 the Board is authorized to certify Army
20 Corps of Engineers 'Nationwide Permits'
21 and that certification process is
22 underway. A preliminary Board
23 recommendation has identified
24 certification conditions for wetland
25 protection. What is your view of those
26 recommendations? Would you strengthen or
27 weaken the certification recommendations?

28 "As a member of the Board, you are



1 sworn to uphold state law including the
2 California Environmental Quality Act.

3 What influence should CEQA play in Board
4 decisions on water allocation matters?

5 "I appreciate your taking the time
6 to respond to this inquiry."

7 I'll give this to you and you can look at it. You may have
8 trouble remembering all the questions, let alone the answers.

9 So, answer those as best you can for the record, then
10 we'll pass it on to Mr. Hayden.

11 MR. STUBCHAER: I'll try.

12 Public Trust Doctrine has been defined in courts as
13 requiring treatment of the environment as equal with other
14 traditional water uses. The Board, of course, considers the
15 public trust uses in making our decisions on water rights cases,
16 and it has to be considered as required by the law.

17 But I can't prejudge without hearing the evidence,
18 case by case, how I would vote on a particular issue, but it
19 certainly has to be considered.

20 SENATOR CRAVEN: Let me interrupt you by asking you a
21 question briefly.

22 It's something that you contended with for many
23 years; isn't it?

24 MR. STUBCHAER: No, not really. I've contended with
25 it in the 11 months I've been on this Board, but I wasn't
26 involved at the regional board level in allocating water rights,
27 and that's mainly where the public trust issue arises.

28 SENATOR AYALA: Mr. Chair, may I inquire.

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1 SENATOR CRAVEN: Yes, Senator Ayala.

2 SENATOR AYALA: Isn't the Board required by law to
3 follow the Public Trust Doctrine as applied to the Mono Lake
4 problem? You have no choice.

5 MR. STUBCHAER: Yes, we have to follow the Public
6 Trust Doctrine.

7 It's my understanding it's evolved through case law
8 and not statute. But we do deal with the Public Trust Doctrine.

9 SENATOR AYALA: And the Racanelli decision doesn't
10 affect it at all?

11 MR. STUBCHAER: That is part of it. It certainly
12 does.

13 SENATOR AYALA: Well, a district court, of course,
14 only applies to the area that court has jurisdiction over, not
15 statewide.

16 MR. STUBCHAER: Yes.

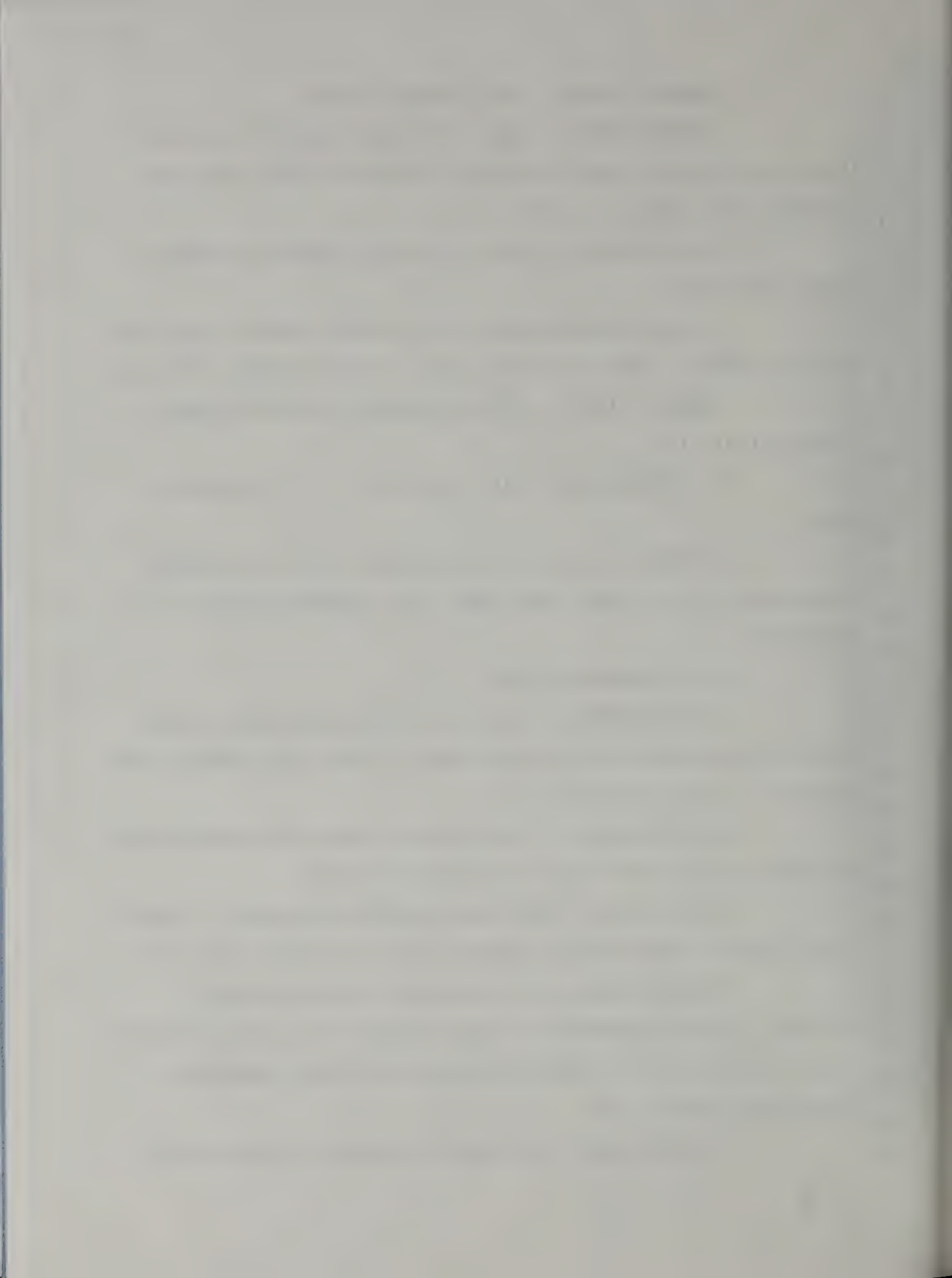
17 SENATOR AYALA: But that's what they used for the
18 Mono Lake problem, was the Department of Water and Power in Los
19 Angeles; is that correct?

20 MR. STUBCHAER: I believe that the Mono Lake case was
21 decided in a Superior Court in El Dorado County.

22 The Racanelli case does establish precedent, though,
23 which directs the Board to consider the Public Trust Doctrine.

24 SENATOR AYALA: But no one has challenged the
25 Racanelli decision because it only applies to the area in which
26 the jurisdiction -- I think it's around Oakland, someplace,
27 where that district is?

28 MR. STUBCHAER: And east of Oakland all the way to



1 the Delta.

2 SENATOR AYALA: Thank you.

3 MR. STUBCHAER: The next question?

4 SENATOR CRAVEN: Yes, sir, if you would.

5 MR. STUBCHAER: This has to do with the wetlands
6 policy, and what is the role of the Board and my position in
7 developing a wetlands policy.

8 There already is a federal wetlands policy. The
9 question which the Board is facing is, should the state policy
10 go beyond the federal policy? Should there be more than one
11 definition of a wetland?

12 And my own view is, I'm not convinced yet that there
13 needs to be a separate definition. I understand that U.S. EPA
14 just recently adopted the Corps of Engineers 1987 definition.
15 That is the definition toward which I lean.

16 Certainly, wetlands need to be preserved, and the "no
17 net loss" concept is state and federal policy. There are
18 differences of opinion in what the qualities of wetlands are:
19 whether or not mitigation measures taken to create wetlands can,
20 in fact, create wetlands of comparable quality to those which
21 might be lost in development. That's an ongoing issue.

22 The next one?

23 SENATOR CRAVEN: Yes.

24 SENATOR AYALA: Question on that.

25 SENATOR CRAVEN: Yes, Senator Ayala.

26 SENATOR AYALA: Wetlands, you're supportive of the
27 creation of wetlands. There's some that exist today, but
28 there's some expansion to some in creating new ones.

1 Do you have any idea where the water would come from
2 for those wetlands?

3 MR. STUBCHAER: There are different types of
4 wetlands, as you know. There's the traditional wetlands -- when
5 I initially thought of wetlands, I think of the estuaries around
6 San Francisco Bay, and some of the coastal marshes, and coastal
7 California.

8 Where those types of wetlands are mitigated or new
9 ones created to offset the possible filling of other ones, the
10 ocean provides the water there, of course. They're tidal
11 marshes.

12 Inland, just to the south of Sacramento here, in the
13 Laguna area, you see created wetlands, and those are being
14 created to offset the impacts of developing east of I-5. And
15 the water for those is -- it's local water, but I think in that
16 area, if you dig a hole deep enough, it fills with water.

17 And so, there are -- and then in the headwaters, it
18 might take diversions from streams to fill some of the created
19 wetlands.

20 So, there's no single answer to your question.

21 But some of the wetlands in the grass lands, the
22 wildlife refuges, receive an allocation of water from the Bureau
23 of Reclamation Reform Act, HR 429, as I'm sure you're aware.

24 SENATOR AYALA: Many people I've talked to are for
25 the creation and expansion of wetlands, but they don't tell me
26 where the water's going to come from for that, you know. So, I
27 have a little problem with that expansion and creating new
28 wetlands.

1 MR. STUBCHAER: The next one has to do with the
2 certification of "Nationwide Permits" by the Corps of Engineers.
3 The question is, would I strengthen or weaken the certification
4 recommendations.

5 We have heard the recommendations. We've been
6 deliberating on them, but we have not yet made a decision on the
7 final action.

8 There's one area involving certification of
9 Nationwide Permits that troubles me a little bit. It's where
10 you have something that's called a vernal pool. That's an area
11 that's not connected with a stream. It's a slight depression in
12 the ground that occasionally may have water in it, after a rain
13 storm.

14 Whether or not a vernal pool should be considered as
15 wetlands has a potentially profound effect on private property
16 rights. Technically speaking, if you have a little depression
17 in your backyard that occasionally fills with rain water or
18 runoff from the roof, that could become a vernal pool and
19 subject to regulation under wetlands, which, in my viewpoint, is
20 excessive.

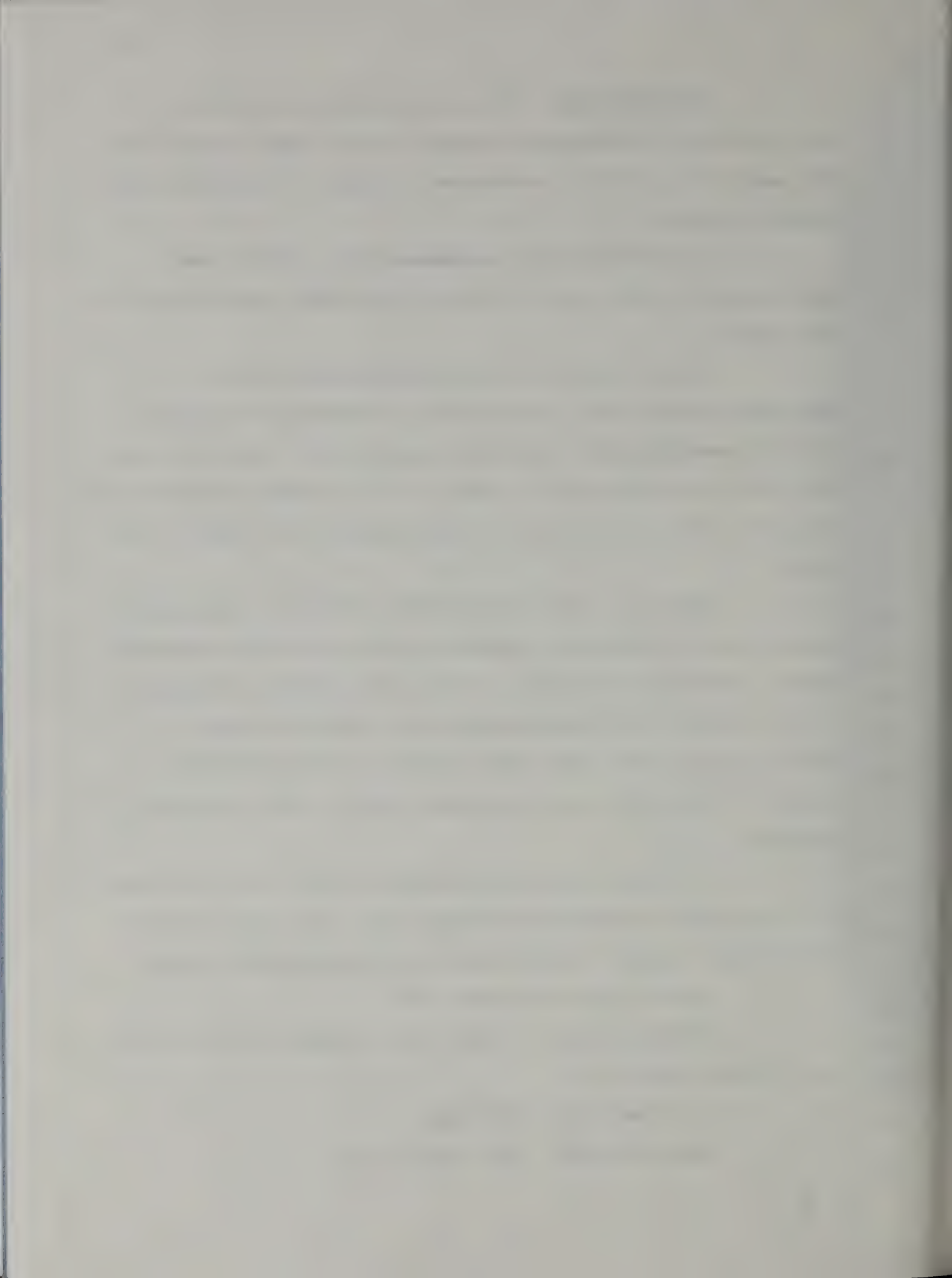
21 So, we are striving to reach a balance on this issue
22 so we can make an appropriate decision that will still protect
23 the wetlands, but not unduly inhibit private property rights.

24 I don't have the answer yet.

25 SENATOR CRAVEN: I think that probably takes care of
26 all of them, doesn't it?

27 MR. STUBCHAER: Well CEQA.

28 SENATOR CRAVEN: Oh, that's right.



1 MR. STUBCHAER: What influence should CEQA play in
2 Board decisions? Well, by law it plays a very large influence
3 in Board decisions. It's the law of the state, and we must
4 comply with it, and I think we do comply with it.

5 SENATOR CRAVEN: Well, that seems like a rather
6 simple answer.

7 SENATOR AYALA: I have one more question, Mr.
8 Chairman.

9 Where do you think the worst polluted or the worst
10 quality water is in California?

11 MR. STUBCHAER: The worst quality water for drinking
12 or bathing?

13 SENATOR AYALA: Potable water.

14 MR. STUBCHAER: Salton Sea.

15 SENATOR AYALA: The New River?

16 MR. STUBCHAER: It's so saline you can't drink it,
17 and the New River adds contaminants to it.

18 SENATOR AYALA: That originated in Mexico, however.
19 It's an international problem.

20 MR. STUBCHAER: The contaminants originate in Mexico,
21 but the salt originated from the Colorado River.

22 From the point of view of potable water, the salts
23 are more of a problem than the contaminants. The combination is
24 pretty bad.

25 SENATOR AYALA: Thank you.

26 SENATOR CRAVEN: That's my old district.

27 MR. STUBCHAER: Nice area.

28 SENATOR CRAVEN: If anybody wants to sell you some

1 shares of stock from the development of the Salton Sea, run.

2 It's a rather strange situation, and you talk about
3 the New River coming up there. It's terrible.

4 But I think, Ruben, that they're doing something
5 about it now, the Mexican government.

6 SENATOR AYALA: There is international effort.

7 SENATOR CRAVEN: I think so, but they've said that
8 for many, many years.

9 MR. STUBCHAER: There was a recent treaty amendment
10 signed or initialed in Calexico in May, that you're probably
11 familiar with, that's supposed to deal with that.

12 I have one question, Mr. Chairman.

13 SENATOR CRAVEN: Yes.

14 MR. STUBCHAER: Will my responses to these questions
15 on the record of this proceeding be an adequate response to
16 Senator Hayden?

17 SENATOR BEVERLY: Probably not.

18 SENATOR CRAVEN: I would find it somewhat difficult
19 to speak on his behalf.

20 But I'll tell you, I wouldn't lose any sleep on that.

21 MR. STUBCHAER: I will make an attempt to meet with
22 him.

23 SENATOR CRAVEN: That would be very kind, and I'm
24 sure the Senator will appreciate it a great deal.

25 We'll also give you a copy of your remarks so you
26 will know what you have said.

27 MR. STUBCHAER: That's always helpful.

28 SENATOR CRAVEN: Now, let's ask the boss here, Mr.

1 President Pro Tem, Senator Roberti, Chairman of this Committee,
2 do you have any questions?

3 CHAIRMAN ROBERTI: I don't have any questions.

4 SENATOR BEVERLY: Renew my motion.

5 CHAIRMAN ROBERTI: Senator Beverly moves that
6 confirmation be recommended to the Floor.

7 Is there any opposition? Not seeing anyone,
8 Secretary will call the roll.

9 SECRETARY WEBB: Senator Ayala.

10 SENATOR AYALA: Aye.

11 SECRETARY WEBB: Ayala Aye. Senator Beverly.

12 SENATOR BEVERLY: Aye.

13 SECRETARY WEBB: Beverly Aye. Senator Petris.
14 Senator Craven.

15 SENATOR CRAVEN: Aye.

16 SECRETARY WEBB: Craven Aye. Senator Roberti.

17 CHAIRMAN ROBERTI: Aye.

18 SECRETARY WEBB: Roberti Aye.

19 CHAIRMAN ROBERTI: The vote is four to zero;
20 confirmation is recommended to the Floor.

21 MR. STUBCHAER: Thank you, gentlemen.

22 CHAIRMAN ROBERTI: Senator Beverly moves the call be
23 lifted on John W. Rice appointment and the Ronny J. Coleman
24 appointment. Without objection, such will be the order.

25 Secretary will call the roll on Rice.

26 SECRETARY WEBB: Senator Roberti.

27 CHAIRMAN ROBERTI: Aye.

28 SECRETARY WEBB: Roberti Aye.

1 CHAIRMAN ROBERTI: The vote is four to zero;
2 confirmation is recommended to the Floor.

3 Secretary will call the roll on Ronny Coleman.

4 SECRETARY WEBB: Senator Roberti.

5 CHAIRMAN ROBERTI: Aye.

6 SECRETARY WEBB: Roberti Aye.

7 CHAIRMAN ROBERTI: The vote is four to zero;
8 confirmation is recommended to the Floor.

9 The next appointment is Robert J. West, Director of
10 the Office of Real Estate Appraisers.

11 Mr. West, we will ask you what we ask all the
12 Governor's appointees, and that's why you feel you're qualified
13 to assume this position?

14 MR. WEST: Before I begin, I have brought some
15 material with me. I don't know what you have in front of you.
16 I brought a copy of a resume. If you don't have that, I have
17 that available.

18 CHAIRMAN ROBERTI: We have that.

19 MR. WEST: I've been involved in the real estate
20 appraisal business for approximately 27 years, since graduating
21 from college. I graduated as an undergraduate from Stanford in
22 Economics. I have an M.B.A. from Stanford also, which I --
23 where I graduated in 1970.

24 Since being involved in the appraisal business, I've
25 written several articles, technical articles, primarily on the
26 appraisal business. I've been involved in professional
27 associations with various organizations, primarily the American
28 Society of Appraisers, and risen through their chairs, and

1 occupied several capacities there.

2 When the legislation originated with respect to the
3 requirement of the federal government to license and certify --
4 or, have the states license and certify appraisers throughout
5 the country, I was involved in one of the organizations which
6 tried to influence the shape of that legislation and was
7 successful in several instances in expressing our points of
8 view.

9 I've also been involved at various times in local
10 government: the Planning Commission in Irvine, and the City
11 Council in Irvine. So, I have an interest in government.

12 I've taught appraisal. This, to me, is a
13 progression, culmination of activities that I have been involved
14 in. It's not that other people couldn't do the job as well as I
15 could, but I have had an interest in it, and I have a background
16 in the business of appraising, as well as shaping the appraisal
17 profession, and knowledge in the appraisal field.

18 So, I hope -- I sit before you today in hopes of
19 confirmation to continue that kind of activity.

20 And Loretta Maxwell and Rosemary Swartz have also
21 come along. They were in the office long before I was. They
22 did an outstanding job and will continue.

23 If you have questions, I'd be happy to answer them.

24 CHAIRMAN ROBERTI: Are there any questions of Mr.
25 West? Senator Ayala.

26 SENATOR AYALA: I'd just like to ask, what's the
27 difference licensed and being certified?

28 MR. WEST: There are various levels of credentials

1 and qualifications. To be certified or licensed by the state,
2 it has to do with the amount of education that's required. For
3 a license level, for example, you need 75 hours of prescribed
4 education. For the certified level for a general certification,
5 you need 165 hours.

6 This educational background relates to the type of
7 appraisals that you're then qualified to do. General appraisals
8 -- a general certification presumably, at least based on the
9 state requirements, you can appraise any kind of property,
10 provided you feel you're qualified to do it. For the license
11 level, you're only appraising one to four unit residential
12 units.

13 SENATOR AYALA: So, a certified appraiser has more
14 educational background than a licensed?

15 MR. WEST: Correct.

16 SENATOR AYALA: Thank you.

17 CHAIRMAN ROBERTI: Are there any further questions?

18 SENATOR CRAVEN: Move.

19 CHAIRMAN ROBERTI: Senator Craven moves that
20 confirmation be recommended to the Floor.

21 Is there any opposition in the audience?

22 You're getting off easy.

23 Secretary, call the roll.

24 SECRETARY WEBB: Senator Ayala.

25 SENATOR AYALA: Aye.

26 SECRETARY WEBB: Ayala Aye. Senator Beverly.

27 SENATOR BEVERLY: Aye.

28 SECRETARY WEBB: Beverly Aye. Senator Petris.

1 Senator Craven.

2 SENATOR CRAVEN: Aye.

3 SECRETARY WEBB: Craven Aye. Senator Roberti.

4 CHAIRMAN ROBERTI: Aye.

5 SECRETARY WEBB: Roberti Aye.

6 CHAIRMAN ROBERTI: The vote is four to zero;
7 confirmation is recommended to the Floor.

8 Congratulations.

9 MR. WEST: Thank you very much.

10 [Thereupon this portion of the
11 Senate Rules Committee hearing
12 was terminated at approximately
13 2:32 P.M.]

14 --oo0oo--
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I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of February, 1993.


EVELYN J. MIZAK
Shorthand Reporter

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25 Reported by:
26

27 Evelyn J. Mizak
28 Shorthand Reporter

APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR RUBEN AYALA

SENATOR ROBERT BEVERLY

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

GEORGE NICHOLAW, Member
California Horse Racing Board

ROBERT H. SHELTON, Member
California Transportation Commission

JUDY R. KUHLMAN, PH.D., Deputy Director
Employment Development Department

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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: Governor's appointees appearing today, George Nicholaw, Member of the California Horse Racing Board.

I think we all know you, Mr. Nicholaw, but we've got to ask you the question: why you feel you're qualified to assume this position?

MR. NICHOLAW: Well, I think I've got to stretch back about three decades, in 1960, when I was with Channel 2 in Los Angeles. We started the first racing program with Gil Stratten every Saturday afternoon from Santa Anita. And that was my first association with horse racing, and I found it very, very interesting.

Through the years I moved on to Chicago, and then on to New York, and when I returned in 1967 to Los Angeles as Manager of KNX News Radio, and we went to the news radio format, after about a year I came up here to Sacramento to see why we couldn't do reports on horse racing.

Horse racing is a very important business to the State of California, and it seemed to me that we were overlooking one of the biggest revenue gainers for our own state that would provide a lot of services. Going through the Horse Racing Board's policies, I discovered that we could broadcast stretch calls on radio every -- providing that we gave them seven minutes after each race, and we could only do a feature race live each day. When I returned to Los Angeles, CBS Law was not too enamored about this because of the FCC regulation that

1 we shouldn't be aiding and abetting gambling.

2 What we were going to do, and what we were planning
3 to do, and what we did do was present these stretch calls on --
4 on radio as sports actualities, which we still do to this day.
5 We started in 1969 with that program, and today, I think, in
6 Southern California alone there are about 25 radio stations that
7 do report on this Board, which I think is very, very important.

8 I think that my chief qualification for this
9 appointment lies in the fact that I'm a successful businessman,
10 and I think that horse racing is a major business.

11 CHAIRMAN ROBERTI: Very good.

12 Are there any questions of Mr. Nicholaw?

13 This is our chance to give you a hard time, but I
14 don't have any really good questions I want to ask you.

15 MR. NICHOLAW: What are you looking for?

16 CHAIRMAN ROBERTI: So, I'm missing my golden
17 opportunity.

18 Are there any other questions of Mr. Nicholaw?

19 SENATOR CRAVEN: I would move Mr. Nicholaw.

20 CHAIRMAN ROBERTI: Senator Craven moves the
21 confirmation to the Floor.

22 Is there any opposition in the audience?

23 Then we will call the roll on Senator Craven's
24 motion.

25 SECRETARY WEBB: Senator Ayala.

26 SENATOR AYALA: Aye.

27 SECRETARY WEBB: Ayala Aye. Senator Beverly.

28 SENATOR BEVERLY: Aye.

1 SECRETARY WEBB: Beverly Aye. Senator Petris.

2 SENATOR PETRIS: Aye.

3 SECRETARY WEBB: Petris Aye. Senator Craven.

4 SENATOR CRAVEN: Aye.

5 SECRETARY WEBB: Craven Aye. Senator Roberti.

6 CHAIRMAN ROBERTI: Aye.

7 SECRETARY WEBB: Roberti Aye.

8 CHAIRMAN ROBERTI: The vote is five to zero;
9 confirmation is recommended to the Floor.

10 Congratulations.

11 MR. NICHOLAW: Thank you very much.

12 CHAIRMAN ROBERTI: I am going to turn the Chair over
13 momentarily to Senator Craven, and we will take up Robert H.
14 Shelton, Member of the California Transportation Commission.

15 SENATOR CRAVEN: Mr. Shelton, please have a seat.
16 Tell us, if you will, why you feel you're qualified for this
17 position?

18 MR. SHELTON: Mr. Chairman, I'm retired at this stage
19 of my life. I am a person who spent about half of his adult
20 life in various public service assignments and the other half in
21 private enterprise.

22 I've had a life-long interest in transportation as a
23 subject. I've been somewhat active in both statewide and local
24 and regional transportation interest groups for a good many
25 years.

26 SENATOR CRAVEN: I notice that you're a former
27 governmental employee, having been a city manager several times.

28 MR. SHELTON: That's correct.

1 SENATOR CRAVEN: Are you happy to get rid of that?

2 MR. SHELTON: Well, it was an easier job then than it
3 is now.

4 SENATOR CRAVEN: I think you're absolutely correct.

5 Do any Members of the Committee have any questions of
6 this gentleman at this time?

7 Does anyone in the audience? There appears to be
8 none.

9 SENATOR BEVERLY: Move we recommend confirmation.

10 SENATOR CRAVEN: Senator Beverly moves.

11 No further comment, call the roll, please.

12 SECRETARY WEBB: Senator Ayala.

13 SENATOR AYALA: Aye.

14 SECRETARY WEBB: Ayala Aye. Senator Beverly.

15 SENATOR BEVERLY: Aye.

16 SECRETARY WEBB: Beverly Aye. Senator Petris.

17 SENATOR PETRIS: Aye.

18 SECRETARY WEBB: Petris Aye. Senator Craven.

19 SENATOR CRAVEN: Aye.

20 SECRETARY WEBB: Craven Aye. Senator Roberti.

21 Four to zero.

22 SENATOR CRAVEN: Measure's out.

23 Congratulations.

24 MR. SHELTON: Thank you very much.

25 SENATOR CRAVEN: Is Dr. Kuhlman here? Yes, there she
26 is. This is Judy R. Kuhlman, Ph.D., Deputy Director, Employment
27 Development Department.

28 You know what we're going to ask you, don't you?

1 DR. KUHLMAN: Why do I feel I'm qualified?

2 SENATOR CRAVEN: That's right.

3 DR. KUHLMAN: I feel I'm qualified for the position
4 because I would bring to it the uniqueness of three specific
5 areas that are very important to training and employment in the
6 State of California. I have a background, skills and abilities
7 that deal with education, with economic development, and with
8 job training programs.

9 SENATOR CRAVEN: Very good.

10 If you wondered what we looked at, we looked at your
11 resume here. I notice that you are two days younger than my
12 oldest boy.

13 DR. KUHLMAN: Good time for a birthday.

14 SENATOR CRAVEN: That's right.

15 Is there anyone on the Committee that has a question
16 of the doctor?

17 Anyone in the audience? There appears to be none.

18 SENATOR BEVERLY: Move confirmation.

19 SENATOR CRAVEN: Senator Beverly moves.

20 No objection, call the roll.

21 SECRETARY WEBB: Senator Ayala.

22 SENATOR AYALA: Aye.

23 SECRETARY WEBB: Ayala Aye. Senator Beverly.

24 SENATOR BEVERLY: Aye.

25 SECRETARY WEBB: Beverly Aye. Senator Petris.

26 SENATOR PETRIS: Aye.

27 SECRETARY WEBB: Petris Aye. Senator Craven.

28 SENATOR CRAVEN: Aye.

1 SECRETARY WEBB: Craven Aye. Senator Roberti.

2 Four to zero.

3 SENATOR CRAVEN: You took us without any trouble at
4 all. Congratulations.

5 [Thereupon this portion of the
6 Senate Rules Committee hearing
7 was terminated at approximately
8 2:32 P.M.]

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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of February, 1993.


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